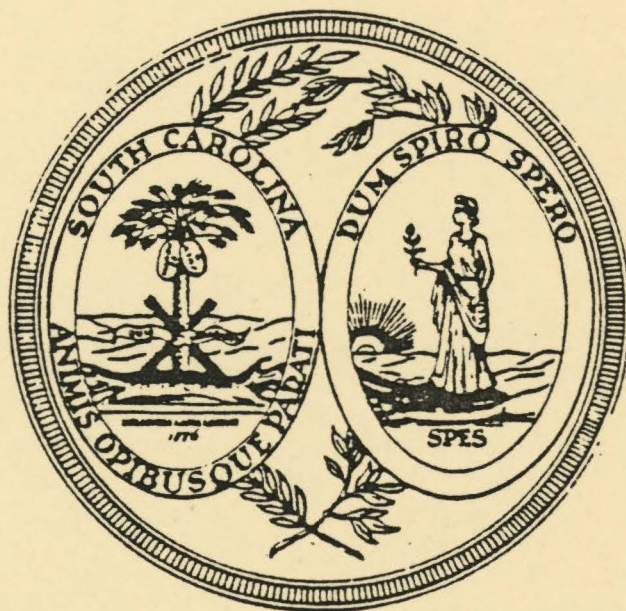


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# South Carolina General Assembly



## Legislative Audit Council



The State of South Carolina  
General Assembly  
Legislative Audit Council  
Sunset Review of the Board  
of Cosmetic Art Examiners and  
the Board of Barber Examiners  
August 31, 1979

THE STATE OF SOUTH CAROLINA

GENERAL ASSEMBLY

LEGISLATIVE AUDIT COUNCIL

SUNSET REVIEW OF THE

BOARD OF COSMETIC ART EXAMINERS

AND THE

BOARD OF BARBER EXAMINERS

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## REPORT SUMMARY

In July 1978 the General Assembly passed Act 608 which has become known as the "Sunset Act." This Act abolishes specific boards and commissions on predetermined dates and requires the Audit Council to review each board one year prior to its termination date. The State Board of Cosmetic Art Examiners and the State Board of Barber Examiners are scheduled to terminate on June 30, 1980. The Audit Council reviewed each Board separately but has combined its evaluation of each Board in this one report. This has been done because both Boards regulate the same basic activity - hair care - and because the same problems were noted in every facet of the Boards' administration and regulation. Following this summary the report is divided into two parts, Part 1 is a detailed evaluation of the Board of Cosmetic Art Examiners and Part 2 is an evaluation of the Board of Barber Examiners.

The State Board of Cosmetic Art Examiners and the State Board of Barber Examiners should be terminated as provided in Act 608. Their functions are not needed because the unlicensed practice of cosmetology and barbering would not present a danger to the public. The Audit Council found that:

- The original purpose for which the Boards were founded - to protect public health - is no longer an issue and is now obsolete.
- The public is afforded protection from incompetent and fraudulent practices through existing consumer laws and the Department of Consumer Affairs.
- Other areas of regulation, such as the oversight of cosmetology and barber schools, are duplicated by other State agencies.

- Consumers can adequately judge the merits of a hair style/haircut for themselves, therefore, competition in the marketplace can eliminate incompetent cosmetologists and barbers.
- The Boards' examination and licensure process does not necessarily guarantee competency among cosmetologists and barbers, and can serve to restrict competition by limiting entry into the occupation which may raise prices.

The inefficient and ineffective manner in which the Boards' administration, examination, licensure, sanitary inspections and complaint handling have been carried out further demonstrates that the public would not suffer from their termination.

The purpose of occupational licensing is to protect the public from unscrupulous and incompetent practitioners. Licensure is necessary when incompetence in the occupation poses a serious threat to the public's health, safety and welfare. If some minor discomfort is the only danger to the public, then open competition is the most efficient and effective method of controlling the practitioners. Licensure is also justified when the public does not possess the knowledge to determine and evaluate the qualifications and services received from members of an occupation. Government regulation should not be provided to protect the economic interest or enhance the status of an occupation. Unless need can be demonstrated and the benefits to the public clearly outweigh the burden of regulation, that regulation should be terminated. The Audit Council found that licensure in these occupations does not meet these recognized criteria and regulation of cosmetology and barbering is neither justified nor desirable.

Regulation and protection can be assumed by more appropriate State agencies already in existence. The Department of Education is the proper agency to regulate cosmetology and barber schools in order

to protect the students and assure quality education. The Department of Consumer Affairs can handle consumer complaints against cosmetologists and barbers and the local health department can deal with health-related complaints. Private trade organizations are available to provide whatever occupational enhancement is desired by the cosmetologists and barbers.

Elimination of the Boards will remove restrictive and unnecessary entry requirements into these occupations. This will promote competition and may lower prices. Termination of the State Boards of Cosmetic Art and Barber Examiners will reduce government regulation and paperwork without any harm to the public health, safety and welfare. The more than \$266,000 in annual fees will no longer be collected and spent on needless regulation.

The specific problems with regulation of cosmetology and barbering in South Carolina are summarized in the following pages.

#### Examination and Licensure Process Not Needed to Protect the Public

(p. 23 and p. 60)

The complex examination and licensure process administered by the Boards serves to restrict entry into the occupation without assuring quality or competence. The Council found problems with every phase of the licensure process administered by each Board.

#### (1) Educational Requirements Too Restrictive (p. 24 and p. 61)

The mandate that individuals must first obtain 1,500 hours of training to receive a cosmetology or barber license is restrictive and excessive. Much of the instruction required is not directly

job-related. On-the-job training is discouraged for cosmetologists and most prospective barbers and cosmetologists are forced to attend schools even if they already possess adequate skills. Such requirements can limit entry into the occupation. Furthermore, State requirements of specialized training are not needed when the practice of hair care does not present any danger to the public.

(2) Examination Not Needed to Ensure Competency (p. 25 and p. 63)

The Audit Council analyzed the license examination given by the Boards, and found that the exams do not fully measure on-the-job skills. Both Boards mandate that persons seeking licensure first pass a written and a practical examination. The written exams only revalidate academic learning; the practical exams are based on Board members' subjective judgement and do not reflect modern hair care trends. For example, a cosmetologist student must be proficient in the skill of finger waving but this is rarely used by today's cosmetologists. Similarly, all prospective barbers must demonstrate the ability to give a taper haircut (the traditional short-cropped haircut tapered at the neck) even though this is neither the current trend in hair styles nor the type of hair style generally preferred by blacks and women. A better measure of actual competency is competition in the marketplace and customer satisfaction.

(3) Junior Cosmetologist and Barber Apprenticeship License Unnecessary  
(p. 27 and p. 65)

Full status as a cosmetologist requires a six-month apprenticeship period as a Junior Cosmetologist. Yet Junior and Registered

Cosmetologists can perform the same services and charge the same fees. Similarly, after completion of 1,500 hours of initial training, a barber student must pass an apprentice examination given by that Board and serve for eighteen months before becoming a licensed barber. There is no difference in the price or type of service which the apprentice or registered barber may offer a customer.

The apprenticeship period is a tradition that may have once been needed but now serves to restrict entry into and mobility within the occupation. The apprenticeship period does not ensure further competency among cosmetologists and barbers, but serves only to provide the Boards with an additional source of revenue.

(4) Licensing of Barber Assistants Not Needed (p. 67)

The Board of Barber Examiners will issue the Barber Assistant license to an individual permitting him or her to give shampoos and manicures in barbershops. Six months training and passage of a Board-administered exam is required for licensure. The training and testing requirements for barber assistants are unnecessary as no real harm exists to the public from an improperly performed shampoo or manicure.

(5) Jobs in Cosmetology Field Restricted (p. 29)

The Board of Cosmetic Art Examiners' licensure requirements restrict the people who may work in a licensed beauty salon. For example, a manicurist cannot work in a salon unless he or she is also a licensed cosmetologist. The rule excludes otherwise qualified persons from employment in beauty shops, and limits competition for the benefit of licensed cosmetologists.



(6) License Renewal Inefficient (p. 29 and p. 67)

All licenses issued by the Boards must be renewed annually. The Cosmetic Art and Barber Examiners Boards issue over 14,000 and 4,600 licenses a year, respectively. This greatly increases the workload of the Boards' staff and requires hiring part-time employees in addition to regular staff. Annual license renewal does not reassess competency or in any way protect the public.

Unnecessary Health Regulations and Inspections (p. 30 and p. 68)

The health regulations promulgated by the Boards are outdated, ineffective and virtually unenforceable. For example, the annual TB test required of all cosmetologists and barbers is no longer needed since TB is no longer a public health threat and can only be transmitted through prolonged contact. Most of the sanitary rules and regulations are common sense hygiene practices which should apply to all business establishments that serve the public and which should not need specific enforcement.

The sanitary inspections meant to ensure compliance with health regulations are an ineffective means of doing so. The barbershop inspections are irregular and do not affect the sanitary conditions in the shop. Neither Board has ever closed down an unsanitary shop. Yet, public health has not been endangered and there are very few complaints about unsanitary beauty and barbershops.

The Council found that the shop inspections served more to locate unlicensed cosmetologists and barbers so that fees can be collected, than to protect public health. As a result, approximately \$290,000 has been spent over the past five years on regulatory activities which have little to do with protecting public health.

Inadequate Handling and Response to Complaints (p. 33 and p. 72)

The Boards do not always respond quickly to complaints from members of the public, nor do they adequately resolve and document complaints. Neither Board has a systematic method of handling complaints nor do they have an accurate record of complaints received or the actions taken as a result of the complaints. The Boards have been unwilling to take strong disciplinary action against cosmetologists and barbers, and they have not developed any disciplinary guidelines. There is no record of either Board ever revoking a barber or cosmetologist's license. The majority of the Boards' complaints have come from members of the occupation rather than the public and responding to public complaints is not a priority. The Department of Consumer Affairs is a more appropriate agency to handle complaints from consumers.

Duplication in the Regulation of Cosmetology and Barber Schools (p. 36 and p. 74)

The Board of Cosmetic Art Examiners licenses schools and teachers and sets standards for curriculum, teachers, class size, physical layout, etc. The Board of Barber Examiners licenses and approves all barber schools in South Carolina, tests and licenses teachers, and requires monthly reports from the schools on the progress of students. These functions are duplicative of the responsibility of the Department of Education and other independent accrediting organizations, which have the professional staff and educational expertise to ensure that quality instruction is being provided. Protection of the student is the primary reason for regulating cosmetology and barber schools. If the Boards were abolished, the Department of Education could assume all needed

oversight of the barber and cosmetologist schools for the protection of the students.

Excessive and Inappropriate Travel and Per Diem Expenditures (p. 39 and p. 76)

The Boards of Cosmetic Art and Barber Examiners have incurred travel and per diem expenditures which are questionable and/or inappropriate. Members of the Board of Cosmetic Art Examiners claimed per diem and travel expenses for an average of 94.25 days each in FY 77-78. The Council found 39 instances involving a total of \$1,800 where individual Board members received per diem and traveling expenses in which there was no documented official Board activity. There were also additional payments for meetings of questionable benefit to the State. The per diem reimbursement for members of the Board of Barber Examiners is inconsistent. The Council found several instances of excessive mileage reimbursements. In some cases, the Boards' travel and per diem reimbursements appeared to be a misuse of State funds and allowed Board members and staff to receive supplemental income rather than serving as a reimbursement for legitimate costs incurred.

Duplication of Functions within the Board of Cosmetic Art and Barber Examiners (p. 41 and p. 79)

The duties, functions and programs of the two Boards are almost identical. Yet they maintain entirely separate identities and operations, and the occupations they regulate are strictly segregated. For example, licensed barbers cannot work in cosmetology shops. The distinction between the two Boards, like the occupations themselves, has been artificially maintained and does not serve the public interest.

#### Lack of Public Participation (p. 47 and p. 83)

There is no input from the public to the Boards' policies and decisions. The Boards have no "public" members. The Board of Cosmetic Art Examiners is composed entirely of cosmetologists, and the Board of Barber Examiners is composed solely of barbers. Citizens rarely attend Board meetings.

The following three findings deal only with the Board of Cosmetic Art Examiners.

#### Lack of Accountability of Teacher Seminar Funds (p. 43)

Cosmetology teachers are required to attend a Board-approved seminar every year in order to renew their license. This seminar is financially backed by a trade association. One Board member collects the fees for the seminar, sets up an account and pays bills related to seminar expenses with no accounting of these funds to the rest of the Board. The method of conducting the teachers' seminar allows for no accountability, and it leaves the Board in a precarious position should it or the trade association be accused of a misuse of funds.

#### Inadequate Safeguards Against Possible Conflicts of Interest (p. 45)

The Board's statutes, rules and regulations do not include any provision against Board members selling supplies or services to members of the cosmetology occupation. Currently, one Board member is part owner of a beauty supply distributorship which sells products to cosmetology salons and schools. As a matter of public policy Board members should keep their business interests separate from the field they regulate. This is recognized by other State Boards. For example, it is

unlawful for members of the Board of Barber Examiners to own any interest in a company that sells supplies or services to barbershops and schools. The relationship of the Board member with the beauty supply distributorship creates a potential for a conflict of interest and places the Board member in the position of doing business with people she also regulates.

#### Inappropriate Testing of Board Members for Teacher's License (p. 46)

One of the current Cosmetology Board members was given the practical portion of the cosmetology teacher's test by fellow Board members. This practice calls into question the objectivity of the examination.

The following finding applies only to the Board of Barber Examiners.

#### Misuse of Board's Regulatory Power (p. 81)

Inspectors for the Board of Barber Examiners have been circulating a petition among South Carolina barbers that calls for continuation of the Board. The circulation of this petition is inappropriate, does not benefit the public, and is a misuse of the Board's regulatory power.

#### RECOMMENDATIONS

THE STATE BOARD OF COSMETIC ART EXAMINERS  
AND THE STATE BOARD OF BARBER EXAMINERS  
SHOULD BE TERMINATED ON JUNE 30, 1980.

ALL NEEDED REGULATION OF COSMETOLOGY AND  
BARBER SCHOOLS SHOULD BE TRANSFERRED TO  
THE DEPARTMENT OF EDUCATION.

ANY CONSUMER COMPLAINTS CONCERNING COSME-  
TOLOGISTS OR BARBERS HEREAFTER SHOULD BE  
REFERRED TO EITHER THE DEPARTMENT OF  
CONSUMER AFFAIRS OR TO LOCAL HEALTH  
DEPARTMENTS.

PROFESSIONAL ENHANCEMENT SHOULD BE THE  
RESPONSIBILITY OF COSMETOLOGIST AND BARBER  
TRADE ASSOCIATIONS WITHOUT GOVERNMENT  
INTERFERENCE.

## INTRODUCTION

Act 608 of 1978 mandates the establishment of "...A System for the Review, Termination, Continuation or Reestablishment of State Agencies, Boards, Departments and Commissions." This is commonly referred to as the "sunset" review. Under this section of the law the General Assembly of South Carolina finds that there has been a "substantial" growth in the number of governmental entities and that this process has occurred "...without sufficient legislative oversight, regulatory accountability or a system of checks and balances." Therefore, the General Assembly has set up a process for the "systematic review" of certain governmental entities so that it might be in a "better position to evaluate the need for their continuation, reorganization or termination." Section 6 of the Act lists 40 agencies, boards and commissions which are to be reviewed and sets termination dates for those entities.

Section 2 of Act 608 provides that twelve months prior to the termination date of an agency or board the Legislative Audit Council will furnish the State Reorganization Commission and the General Assembly a "review of the specific programs or functions administered by such agency or board." One goal of this review is to determine if the Board is needed to protect the public health, safety and welfare, and if State regulation is the most effective means of doing so. As part of this review and evaluation, the Audit Council is to provide information germane to the following issues:

- (1) The amount of the increase or reduction of costs of goods and services caused by the administering of the programs or functions of the agency under review;

- (2) Economic, fiscal and other impacts that would occur in the absence of the administering of the programs or functions of the agency under review;
- (3) The overall cost, including manpower, of the agency under review;
- (4) The efficiency of the administration of the programs or functions of the agency under review;
- (5) The extent to which the agency under review has encouraged the participation of the public and, if applicable, the industry it regulates;
- (6) The extent to which the agency duplicates the services, functions and programs administered by any other State, Federal, or other agency or entity;
- (7) The efficiency with which formal public complaints filed with the agency concerning persons or industries subject to the regulation and administration of the agency under review have been processed;
- (8) The extent to which the agency under review has complied with all applicable State, Federal and local statutes and regulation.

The following audit and evaluation presents the Audit Council's findings concerning these and other issues. Also included are recommendations concerning the continuation, reorganization or termination of the Boards reviewed.

In conducting this review the Audit Council examined and analyzed all policies promulgated by the Boards. All applicable State regulations were reviewed, as well as sunset reports from other states. Files and records of the Boards were analyzed, including minutes of meetings, vouchers, budget data and complaints. Interviews were held with the members of each Board and their staff, current licensees and personnel from the Department of Health and Environmental Control and the Department of Education. In addition, Audit Council staff observed the Boards'



examinations and beauty shop and barbershop inspections. This report is divided into two parts: the review of the Board of Cosmetic Art Examiners and the Board of Barber Examiners. Each part consists of three sections: background and history, issues and findings, and sunset issues and evaluations.

PART 1

REVIEW OF THE  
BOARD OF COSMETIC ART EXAMINERS

## BACKGROUND AND HISTORY

Regulation of the cosmetology and hairdressing industry in the United States first appeared in 1897 in Minnesota. By 1935, 37 states, South Carolina included, had passed laws governing the activities of cosmetologists. The South Carolina State Board of Cosmetic Art Examiners was established by Act 771 in 1934 and amended by Act 259 in 1971. The purpose of this legislation, as stated in the current statutes, is "to insure the better education and regulate the proper conduct of cosmetologists and sanitation of beauty salons and beauty schools, to protect the public health." State law defines the practice of cosmetology as:

The systematic massaging with the hands or mechanical apparatus of the scalp, face, neck, shoulders and hands; the use of cosmetic preparations and antiseptics in connection therewith; manicuring (except by manicurists employed in barbershops); cutting, dyeing, cleansing, arranging, dressing, waving, and marcelling of the hair; and the use of electricity for stimulating the growth of hair.

The Board consists of four members, one of whom is appointed annually by the Governor from a list of six nominees. Two of the people on the list must be recommended by the Board; two recommended by the South Carolina Registered Cosmetologists Association; and two by the South Carolina State Cosmetologists Association. The term of appointment is four years and commences on March 20. There is no limit on reappointments and one member has been on the Board for thirty years. All other members have been on the Board for less than one term.

Each member of the Board must be a practicing cosmetologist for at least five years in the State of South Carolina, and must have at least

a high school education. In addition, Board members cannot have any affiliation with schools teaching cosmetology. The statutes empower the Board to make rules and regulations necessary to carry out its duties of licensing, examination, and sanitary enforcement.

The Board is self-supporting through the fees it collects and until July 1, 1976, kept its own bank accounts. Now it receives an appropriation from the General Assembly based on estimated revenues, and any funds collected in excess of actual expenditures revert back to the State's General Fund.

### Duties

The duties imposed by State law upon the Board fall into four broad areas:

- (1) Licensing - The Board issues Junior Cosmetologist, Registered Cosmetologist and Cosmetology Teacher licenses. In addition, it licenses beauty schools and beauty salons. All licenses must be renewed yearly. Both public and private beauty schools, in order to be licensed, must meet a detailed list of Board specifications.
- (2) Testing - The Junior Cosmetologist license exam and the teacher license exam each consist of a written test and a practical demonstration of skills; the Registered Cosmetologist exam is a practical demonstration only. The written tests used are national standardized tests and are graded by a testing service. The Board administers and grades the practical demonstration tests itself.

- (3) Inspections - Three inspectors hired by the Board travel full-time around the State inspecting beauty shops for compliance with sanitary rules and regulations. In addition, they verify that each shop and each cosmetologist has a current license, and they investigate any complaints arising within their inspection area. Beauty schools are inspected by Board members themselves.
- (4) Complaints - Board inspectors help investigate consumer complaints and the Board can hold hearings and discipline members of the profession.

The Board regulates and licenses over 19,000 cosmetologists, junior cosmetologists, schools, teachers, and beauty shops annually. Examinations are given several times a month and total over 1,500 a year. Table 1 shows the number of licenses issued and exams given over the last five years while Table 2 shows the current fee schedule used by the Board.

### Reciprocity

South Carolina has reciprocity agreements with 40 other states. A licensed cosmetologist from one of these states can be licensed in South Carolina without taking the Board exam. South Carolina does not have reciprocity agreements with nine other states. Cosmetologists from these states who wish to practice in South Carolina must take the Junior and the Registered Cosmetologist exams.

TABLE 1  
LICENSES ISSUED AND EXAMS GIVEN  
FY 73-74 TO FY 77-78

	<u>FY 73-74</u>	<u>FY 74-75</u>	<u>FY 7576</u>	<u>FY 76-77</u>	<u>FY 77-78</u>
<u>Number of Licenses</u>					
<u>Issued</u>					
Registered Cosmetol- ogists	10,345	10,731	11,124	11,267	11,140
Junior Cosmetol- ogists	1,420	1,340	1,498	1,727	1,461
Teacher	215	249	136	109	188
School (Private Only)	32	32	34	35	43
Shop	4,608	4,325	3,303	2,285	6,276
<u>Number of Exams</u>					
Registered Cosmetol- ogists	720	745	536	955	637
Junior Cosmetologists	1,210	1,106	755	881	873

TABLE 2  
FEE SCHEDULE FOR FY 78-79

Registered Cosmetologists:

Initial License & Exam	\$ 17.50
Yearly Renewal	7.50
Late Fee	15.00
Reciprocity	32.50

Junior Cosmetologists:

Initial License & Fee Exam	\$ 8.50
Work Permit	1.00
Renewal	5.00
Late Fee	6.50

Teachers:

Initial License & Exam	\$ 25.00
Yearly Renewal	5.00
Late Fee	10.00

Beauty Shops:

New License or Change of Location	\$ 25.00
Change of Owner or Name	10.00
Yearly Renewal	10.00
Late Fee	20.00

Beauty Schools:

New License or Change of Location	\$100.00
Change of Owner or Name	25.00
Yearly Renewal	25.00

### Budget and Staff

In FY 77-78, the Board's expenditures were \$148,930 and its revenue collections amounted to \$193,840. Over the last five years the Board's total expenditures have risen 22%. Personal service, per diem and travel costs made up 69% of the operating budget. The projected FY 78-79 expenditures total \$168,000 with revenue collections estimated at \$198,699. More than half of the funds collected come from license renewals.

The Board employs eight full-time employees; an Executive Secretary, four office staff and three beauty shop inspectors. Office personnel estimate they spend 75% of their time performing Board-related duties and 25% of their time performing clerical and reporting tasks required by the State.



TABLE 3

## SOUTH CAROLINA BOARD OF COSMETIC ART EXAMINERS

Statement of Sources and Uses of Funds for the  
Five-year Period Ended June 30, 1978

	<u>FY 73-74</u>	<u>FY 74-75</u>	<u>FY 75-76</u>	<u>FY 76-77</u>	<u>FY 77-78</u>
SOURCE OF FUNDS:					
Fees - Licensing	\$135,573	\$136,655	\$133,648	\$133,877	\$179,845
Fees - Examination	11,509	11,321	11,666	12,387	11,607
Interest Income	3,038	3,680	4,166	*	*
Misc. Income	1,645	2,479	1,086	1,686	2,388
Bal. Previous Year	<u>115,205</u>	<u>139,994</u>	<u>156,796</u>	<u>*</u>	<u>*</u>
TOTAL REVENUE	<u>\$266,970</u>	<u>\$294,129</u>	<u>\$307,362</u>	<u>\$147,950</u>	<u>\$193,840</u>
USE OF FUNDS:					
Personal Services	\$ 46,486	\$ 47,651	\$ 51,522	\$ 55,648	\$ 54,854
Board Per Diem	12,325	13,200	13,365	10,450	13,195
Employer Contribution	3,916	6,148	6,909	-	9,225
Board Travel	15,012	19,136	19,816	15,334	11,898
Inspector's Travel	10,281	10,759	14,961	17,976	14,805
Telephone	1,932	2,241	2,604	2,335	2,070
Data Processing	-	4,600	7,948	6,749	8,247
Other Contractual Services	13,160	13,769	14,390	9,750	11,256
Rent	10,080	10,080	10,920	9,490	10,680
Other Fixed Costs	2,691	155	2,089	256	267
Supplies and Equipment	10,831	9,131	18,039	6,015	11,947
Other	<u>253</u>	<u>460</u>	<u>254</u>	<u>313</u>	<u>486</u>
TOTAL EXPENDITURES	<u>\$126,967</u>	<u>\$137,330</u>	<u>\$162,817</u>	<u>\$134,316</u>	<u>\$148,930</u>

\*In 1976 the Board came under the financial administration of the Comptroller General and these balances went into the General Fund.

Source: South Carolina State Budget and Control Board.

## ISSUES AND FINDINGS

### Examination and Licensure Process Not Needed to Protect the Public

The primary function of the Board of Cosmetic Art Examiners is the examination and licensure of all persons entering the occupation. Currently, two main types of licenses are issued by the Board: Junior Cosmetologist and Registered Cosmetologist. There are three phases in the licensing process that a person must complete in order to become a licensed cosmetologist:

- (1) Complete 1,500 hours (usually nine months) of cosmetology training at a cosmetology school.
- (2) Pass a written and practical examination and work as a Junior Cosmetologist for six months.
- (3) Pass another practical exam to become a Registered Cosmetologist.

The Audit Council reviewed the Board's examination and licensure functions, policies and procedures, and found that these measures of competency are only superficial, and not needed to protect the public. According to Dr. Benjamin Shimberg, Associate Director for the Center for Occupational and Professional Assessment and a noted authority on occupational regulation, "licensure should be used only as a remedy of last resort." A restrictive, multi-leveled licensing process is not needed when the minor discomfort of a bad hair style is the worst threat to the public. The licensure requirements mandated by the Board serve mostly to enhance the status of the cosmetology occupation, which should be the responsibility of trade organizations.

The Council found the educational standards required by the Board are excessive and serve only to limit entry into the cosmetology occupation. In addition, the Council found the examination process to

be unnecessary, the need for the six-month apprenticeship period to be obsolete and the yearly renewal of licenses to be inefficient. The details and problems of each step in the licensing process administered by the Board are discussed in the following pages.

(1) Educational Requirements Too Restrictive

The Council analyzed the educational curriculum required and found much of it not job-related and of little practical value. An individual who desires to become a cosmetologist must first complete 1,500 hours training in a cosmetology school or be trained by a cosmetologist in a beauty shop (Section 40-13-120 of the 1976 Code of Laws). The great majority of individuals must attend cosmetology schools since cosmetology training under a willing cosmetologist is difficult to arrange and is discouraged by the Board. Only after completing the 1,500 hours of training can a person be examined and tested for a Junior Cosmetologist license. Instruction in a cosmetology school costs from \$500 to almost \$1,000.

The required curriculum includes subjects such as anatomy, psychology and public relations. These subjects do not directly relate to the ability to give a good hair style. Only approximately 68% of the instruction deals directly with cutting, curling or dyeing hair. If a student drops out of cosmetology school for five years, he or she forfeits all previous training and must retake the entire 1,500 hours of instruction.

The purpose of educational requirements in the licensing process is to assure a minimum level of practitioner competency for the public's protection. Excessive requirements deny individuals

entry into the occupation and marketplace, and restrict mobility within the occupation. Some students need less training than others to be successful and should not be restricted from entering the marketplace. Mandatory completion of the 1,500 hours demands that students attend and remain in school even though they may already possess the skills necessary to be successful cosmetologists.

The public would not be harmed if the educational requirements were eliminated. Students in cosmetology schools are allowed now to cut the hair of consumers who pay a nominal fee to the school. Students must practice on live models before they can graduate from school. Any consumer can buy permanent waving or hair coloring solutions and apply them at home without regulation. The Council could find no evidence of public harm from these practices. The only threat to the public is a bad hair style, which is not sufficient reason to require cosmetologists to undergo excessive and costly training.

These educational requirements restrict entry into the occupation, which may lead to higher costs to the public. In addition, cosmetology schools which are private businesses are provided a captive market of students as a result of Board policies.

(2) Examinations Not Needed to Ensure Competency

The Board has developed a series of practical and written examinations in order to restrict the entry of unskilled persons into the cosmetology field. An analysis of these exams revealed that they do not ensure competency and are not the best way of keeping unskilled cosmetologists from the public.

To obtain a Junior Cosmetologist license an applicant must pass both a written and a practical test, which together take about five hours to complete. The written test is published and graded by a national testing corporation and is used in several other states. The practical test consists of a demonstration of skills in manicuring, hair cutting, curling, coloring, straightening and permanent waving on a live model.

The Audit Council analyzed the written test and found that it tested subjects unrelated to the basic function of cosmetology, such as psychology, anatomy and public relations. It merely revalidates academic learning and has little connection with potential on-the-job performance. The written test can be unfair to students who might be good hair stylists but possess poor reading and writing skills.

Passing the practical exam is based on the Board members' subjective judgement. Many of the techniques tested are outdated and are no longer used in the marketplace. For example, a student must be proficient in the skill of finger waving but this is rarely used by today's cosmetologists. In addition, the exam does not fully test many of the skills which are used in modern beauty salons. The application of permanent waving and hair coloring solutions is often performed by cosmetologists. However, these procedures are only simulated with water during the Board exam, thus, the actual result is never evaluated.

There is no evidence that these exams actually ensure competency among cosmetologists and they are not needed to protect the public. The competitive marketplace provides a more realistic and

objective assessment of qualifications. Public standards and customer satisfaction are the best indication of a cosmetologist's abilities, not the one time testing of an individual which is based partly on the personal opinion of Board members. A cosmetologist's success in his or her chosen field is determined by and dependent upon the ability to cut hair. Cosmetologists who are unskilled will be unable to remain in the marketplace when their dissatisfied customers choose other cosmetologists. Such incompetence might result in an unattractive haircut, yet no permanent or significant harm will have been rendered to the general public. Rather, this complex examination process enforced by the Board presents an unnecessary roadblock to those seeking entry into the occupation, without assuring quality cosmetologists.

(3) Junior Cosmetologist License Unnecessary

The completion of the Junior Cosmetologist apprenticeship period as required by the Board provides no additional protection or benefits to the public and only serves to provide the Board with a source of revenue. After a person has obtained a Junior Cosmetologist license, he or she must complete a six-month apprenticeship period under a Registered Cosmetologist and pass another practical exam to obtain the Registered Cosmetologist license. There is no difference in the price or type of service which the Junior or the Registered Cosmetologist may offer a customer. The only distinction between the two licenses is that a Junior Cosmetologist cannot own or manage a beauty shop, and must work under the supervision of a Registered Cosmetologist.

Apprenticeship periods such as the Junior Cosmetologist have been a tradition with many trades, especially where school training was unavailable. Today, however, the Junior Cosmetologist's apprenticeship serves a different purpose. Cosmetology Board members acknowledge that income derived from the examination and licensure of Junior Cosmetologists is necessary to the Board's operation. The Board would have to obtain additional funds if this revenue source was eliminated.

The six-month apprenticeship provides no additional benefits or protection for the public. No apparent harm would occur without such a requirement. At least 20 other states do not require an apprenticeship period for cosmetologists. There is no uniformity among states which do mandate an apprenticeship; the time required ranges from 6 months to 36 months. The mobility of qualified persons within an occupation should not be limited by unjustified restrictions. The marketplace can identify and evaluate the competency of the novice cosmetologist more effectively than the apprenticeship period. Furthermore, less than 1% of the Junior Cosmetologists have ever failed the Registered Cosmetologist examination. This demonstrates that most Junior Cosmetologists are already qualified to be Registered Cosmetologists.

The apprenticeship period is a superficial barrier which restricts entry into the occupation and benefits only those cosmetologists already established in the occupation. By forcing Junior Cosmetologists to work under Registered Cosmetologists, the occupation is allowed to control its own membership. If a person is unable to get a job as a Junior Cosmetologist, then he or she

cannot become fully licensed. In addition, the initial earning capabilities of the Junior Cosmetologist are restricted since she cannot own or manage her own cosmetology shop. Thus, the number of shops is limited, reducing competition for cosmetologists already in business. Such restrictive practices may result in higher prices to the public.

(4) Jobs in Cosmetology Field Restricted

The Audit Council found that the Board's licensure requirements restricted not only the number of cosmetologists but cosmetology-related jobs as well. For example, a beauty shop cannot hire an unlicensed "shampoo girl" who would just wash customers' hair. A person must be either a licensed cosmetologist or a student undergoing training to perform any hair care function on a customer in a cosmetology shop. Likewise, a beauty shop cannot hire a manicurist who is not also a licensed cosmetologist.

Shampooing hair or manicuring fingernails does not present a danger to public health. Yet the Board has restricted these jobs to licensed cosmetologists. The mandate to hire only licensed cosmetologists prevents individuals from finding employment and could increase the expenses of a beauty shop, which may result in higher prices to the public.

(5) License Renewal Inefficient

All licenses issued by the Board, including shops, schools, teachers and Junior and Registered Cosmetologists, must be renewed every year. Annual license renewal is costly, inefficient and serves no useful purpose. Only teachers must fulfill a continuing



education requirement to renew their license. Most of the licenses, about 12,000, are renewed between the months of January and March. This greatly increases the workload for the Board's office staff and necessitates the hiring of a part-time employee.

According to the Board, annual license renewal is needed in order to protect the public since every cosmetologist is required to take a TB test annually. In addition, this helps the Board keep track of all persons in the occupation. The major reason for annual license renewal, however, is to generate revenue for the Board's continued existence.

Annual license renewal does not reassess competency or in any way protect the public. The TB test is no longer needed (see p. 31). Other states have abolished the requirement for annual licensing and many other occupational Boards issue licenses biennially or permanently. Yearly renewal of licenses is very inefficient and costs time and money for the Board and cosmetologists.

#### Unnecessary Health Regulations and Inspections

Health regulations promulgated by the Board of Cosmetic Art Examiners and the beauty shop inspections used to enforce them are ineffective and unnecessary. No evidence exists to show that the health regulations and inspections protect public health, or that the lack of them would endanger public health. Most of the health regulations are either unnecessary or unenforceable. The Council found that the inspection process serves more to ensure that practitioners' licenses are current and to locate unlicensed cosmetologists so that fees can be collected.

The Board employs three inspectors who visit every cosmetology shop about three times a year. The health rules and regulations developed by the Board and approved by the Department of Health and Environmental Control (DHEC) serve as the criteria for these inspections. Many of the regulations are no longer needed. For example, every cosmetologist must take a tuberculosis skin test or chest X-ray every year for license renewal. According to an official of the Bureau of Environmental Sanitation at DHEC, tuberculosis is no longer a public health threat and the chances are "infinitesimal" that a cosmetologist will transmit this disease to a customer. TB infection occurs only after prolonged contact, the spokesman said. The threat to the public from TB is so slight that food handlers are no longer required by DHEC to take a TB test.

Other regulations are impossible to enforce. For example, the regulations state that clean, fresh towels must be used for each customer, that brushes must be thoroughly washed and then sanitized after each use and that the cosmetologist must wash her hands before working on each customer. Often the inspector visits the shop when no patrons are present, so it is impossible to ascertain whether the cosmetologist is following health and safety regulations at the time when it is most important, i.e., when she is working on a patron. Most of the health regulations are common-sense hygiene practices which should apply to all business establishments that serve the public and which should not need specific enforcement.

The inspectors use a checklist to grade the condition in the beauty salons and a failing grade is considered below 70 out of a possible 100 points. If the shop's sanitary grade is 70 or below, a warning letter is

sent. There is no record that the Board has ever taken any disciplinary action against a shop owner for operating a dirty shop. Even citations are rarely sent. An examination of the Board's files revealed that only 33 cases of unsanitary shops, either found by the inspector or alleged in a complaint, have occurred since 1974. An analysis of ten of these cases showed that when the inspector reinspected the offending shop it always received a high passing grade. This indicates that sanitary conditions in beauty shops vary considerably from day to day and the grade received reflects only the condition at the time of the inspection. Sometimes the inspector did not return to reinspect a shop until several months after the complaint was made. Also, complaint and inspection reports are not routinely compiled for each shop, so it is difficult for the Board to build a case against a chronic offender. (After the Audit Council's fieldwork was completed, the Board on July 31, 1979, revoked a beauty shop's license.)

The purpose of the health rules and regulations and the sanitary inspections, as stated in the Board's enabling legislation, is to "protect the public health." When the Board was created in 1934 the threat of communicable diseases was more prevalent. However, there is no evidence to show that beauty establishments still present a potential hazard to the public health. According to DHEC's Bureau of Environmental Health, most sanitary rules and regulations were developed in this State at a time when infectious diseases were a problem. Today, advances in health care and waste treatment have eliminated most serious contagions and have made many health regulations obsolete. If consumers have complaints dealing with the health conditions of a beauty shop, they could best be handled by the local health department.

The Audit Council failed to find any reports that a patron had been accidentally injured or infected by a cosmetologist within this State. Other states have found similar conditions. According to a California report, no outbreak of serious disease has been attributable to cosmetologists within recent years. At worst, a dirty shop is only a discomfort, not a health hazard, to the public.

The Board's ineffectiveness in enforcement of health regulations has brought no serious harm to the public. The inspection process is an example of government regulation and paperwork that is neither relevant nor needed. As a result, \$147,858 has been spent within the past five fiscal years on an activity not needed to protect public health.

#### Inadequate Response to Complaints

The Board of Cosmetic Art Examiners does not respond in an efficient and timely manner to public complaints. Also, investigations are inadequately documented and disciplinary action is seldom taken. The Board is empowered to investigate and resolve complaints from the public. This function is carried out chiefly through the beauty shop inspectors who investigate complaints and who may issue citations to shop owners. The Board also can hold formal hearings, with legal counsel present, to resolve complaints and discipline members of the profession if needed.

The Board, however, does not always respond quickly to complaints. For example, on March 19, 1979 five consumers complained to the Board that the same beauty shop had damaged their hair. The Board determined that they could not meet with the shop patrons until May 9, nearly two months after the initial complaint. None of the complainants

showed up at the Board hearing May 9th, and the case against the shop had to be dropped. One complainant told the Council that she did not appear at the hearing because the Board took so long in scheduling it, and by this time her damaged hair had grown out and had been restyled. An analysis of complaints made by members of the public concerning the sanitary conditions in shops showed similar Board action. Many times inspectors were not sent to the shop until two or three months after the complaint was made. From January 1977 to March 1979, the Board received 27 complaints from beauty shop customers who were dissatisfied with the hair style or coloring job they received. The Board met with only three of these consumers to view the condition of their hair. In all 27 cases, the Board never ruled that the cosmetologist was incompetent.

Public complaints are not a top priority with the Board. In fact, the Board receives more complaints from cosmetologists than it does from the public. In the years of 1974 to March 1979, 74% of a total of 322 complaints dealt with unlicensed cosmetologists and/or shops. Most of these complaints were made by cosmetologists, several of whom cited unfair competition as the reason for filing the complaint. Board inspectors spend far more time investigating cases of unlicensed operators than they do public complaints. Public complaints have comprised only approximately 33% of all complaints made since 1974.

Also, the Board has no established procedures for handling public complaints but tries to settle them informally. The statutes give the Board the power to take disciplinary action for several kinds of offenses, including "gross incompetence." Yet it has established no formal guidelines as to what constitutes "gross incompetence." Overall the Board lacks disciplinary guidelines on when and how to discipline cosmetologists

and whether an offense merits a reprimand, a Board hearing or a formal hearing with attorneys present.

The Board rarely takes strong disciplinary action against cosmetologists. The Council reviewed the files of Board hearings for the past ten years and found that the Board had never revoked a junior or registered cosmetologist's license. It has revoked only two teacher licenses and one school license, and temporarily suspended one teacher's license and one shop license. A teacher whose license is revoked can still work as a cosmetologist. The Board has placed several persons and schools on probation but there is no evidence that cosmetologists on probation are subjected to any special regulation or scrutiny by the Board.

In addition to the inadequate response to public complaints and the lack of disciplinary action, the Board does not adequately document complaints. While a standard complaint form is generally used, the outcome of the complaint is not recorded. There is no evidence that all complaints are followed up by the Board to ensure that they are resolved.

Protecting the public should be one of the prime goals of all licensing Boards, including the Board of Cosmetic Art Examiners. Complaints should be investigated and resolved in a manner which is satisfactory and credible to the public. Even if the Board had received only one consumer complaint in all its years of existence, that complaint should have been taken seriously and every effort made to resolve it. This standard has been promulgated by experts in the field of occupational licensing. Other states have begun to realize that many regulatory agencies are overly protective of those whom they regulate. These states have centralized complaint handling in independent agencies which are not indebted to or a part of the occupational group.

The low incidence of consumer complaints indicates one of two circumstances: either there are few public problems needing remedies, or aggrieved consumers cannot get satisfaction from the Board and therefore do not bring complaints to its attention. If the first is true, then the Department of Consumer Affairs, with established procedures for the documentation of complaints and representation of consumers, is the most visible and appropriate agency to handle such complaints.

In the second case, the Board fails to protect the public when it does not respond to complaints quickly and effectively. Its unwillingness to discipline members of the cosmetology occupation indicates an attitude of occupational protection rather than public protection. The Board's failure to act could mean a substantial loss of time and money for consumers who may be forced to seek relief in civil court. In view of its inadequate response to complaints, the Board has demonstrated that it is not the best government agency to deal with public complaints.

#### Duplication in the Regulation of Cosmetology Schools

The Board of Cosmetic Art Examiners' function of regulating cosmetology schools duplicates the responsibility given to the Department of Education. The Board licenses and approves all cosmetology schools in South Carolina. There are 32 private schools currently licensed, and cosmetology programs can be found in 35 public and technical schools. All cosmetology curriculums, whether in private, profit-making schools or in public vocational and technical education schools, are established by the Board. The Board tests and licenses teachers and requires them to attend a 45-hour college level "Methods of Teaching" course. Attendance at an annual continuing education seminar is also required.

The Board determines the teacher-student ratio; the type and amount of equipment needed; the size of classroom and work areas; the type of courses and the number of hours which must be taught. In addition, the Board has established a standard student contract used in private schools, and serves to mediate between students and teachers during disputes. The Board keeps monthly reports on the number of hours credited to the student for each course taken and these hours are verified when the student applies to take the Junior Cosmetologist exam. The Board is also supposed to periodically inspect schools for compliance with Board rules and regulations.

The Department of Education also has responsibility for regulating cosmetology programs and schools. For example, cosmetology programs in vocational education schools and regular high schools are within the purview of the Department of Education. The technical and vocational offices of the Department oversee high school cosmetology courses and local school boards are responsible for initiating, funding and implementing the courses.

The Department chooses the cosmetology textbooks, the brand name and price of equipment to be used and approves classroom blueprints. It certifies cosmetology teachers after they have been licensed by the Board. The Department also tests and certifies other trade and industrial teachers who are not licensed by a regulatory board. In addition, the Department of Education exerts a form of quality control over the cosmetology course in public schools; if 50% of the students fail to find jobs in the profession for two consecutive years, the program is reevaluated and can be terminated.

In addition, the State Approving Section within the Department of Education certifies private cosmetology schools as eligible to train veterans



who receive funds under the G.I. Bill. The purpose of this regulation is to satisfy Federal requirements that veterans are receiving the education for which they paid. Presently 60 veterans attend cosmetology schools in this State.

Cosmetology schools must meet strict Federal criteria before students funded by programs such as CETA can be accepted. To qualify, schools must be approved by the Cosmetology Accrediting Commission, which is recognized by the U. S. Department of Health, Education and Welfare. The Accrediting Commission's standards for approval are stricter than the Board's standards and at the present time only six cosmetology schools have been accredited by them.

The State Approving Section also has regulatory authority over private, non-degree, profit-making schools. Such schools include flying, modeling and business schools. This regulation serves to ensure that students receive a quality education for their tuition. Cosmetology schools are exempted from this oversight as long as they are regulated by the Board. If the Board did not exist, cosmetology schools would fall within the State Approving Section's authority. Under Section 59-59-30 of the 1976 S. C. Code of Laws, the State Approving Section has the authority to set standards for curriculum, equipment, classroom size and teachers. It also requires that student contracts have a minimum cancellation and refund policy to protect the student if he or she drops out of school.

Protection of the student is the primary reason for regulating cosmetology schools. Regulation should be accomplished in the most efficient and effective manner possible while ensuring that students receive a quality education for their money. The existence of this

function in two agencies is unnecessary and costly. The Department of Education has full-time staff with the expertise in educational techniques to effectively regulate the cosmetology schools. In addition, the Department is now regulating other occupational and trade schools. Separate regulation of schools by the Board is inefficient and unnecessary. Its elimination would not affect the protection of the students, which is the purpose of such oversight.

#### Excessive Travel and Per Diem Expenditures

The Board of Cosmetic Art Examiners has incurred travel and per diem expenditures which are questionable and unusually high in comparison with other State Boards. In FY 77-78, Board members claimed per diem for an average of 94.25 days each. Per diem payments to the four-member Board totaled \$13,195 for FY 77-78 and the Board's traveling expenses were \$11,898. Total per diem for the past five fiscal years was \$62,535 and total Board travel reimbursements were \$81,196.

While the Board must meet several times a month to administer exams or inspect schools, the Audit Council could find no justification for many other meetings. The Council examined all Board vouchers for calendar year 1978 and matched them against minutes of meetings, exam schedules and school inspection reports for calendar year 1978. There was no documented official Board activity for 39 instances on which different Board members claimed per diem and traveling expenses totalling about \$1,800.

The Council also noted other examples of questionable per diem payments. For example, a newly-appointed Board member collected per diem and travel expenses the day before her term of office began. At

other times Board members collected per diem and travel expenses for judging school hair styling or beauty contests, for attending trade shows and seminars, and for meeting with cosmetology trade association members. Three of the members collected per diem and travel expenses to attend an office Christmas party. Several dates on which Board members collected per diem fell on a Saturday or Sunday. The Board also does not always use its time efficiently. Regular monthly meetings were not always scheduled on days the Board already planned to be in their offices to give exams. There was no coordination between Board members on inter-state trips.

Board members approve their own travel vouchers. Although Board regulations state that the secretary should also sign the travel vouchers, this is not done. There are no controls over how often Board members may claim per diem except that they cannot claim it more than 15 days per month. Board members do not have to justify to anyone how they spend their time. However, State travel policy does caution officials to use "care and prudence" while incurring expenses paid by the State. It says that Board members should be as careful with State traveling expenses as they are with their own personal expenses.

Excessive traveling by the Board is an inefficient use of State funds. A part-time salaried employee could perform some of the Board's duties less expensively. Overuse of travel and per diem allowances and the lack of documentation violates State policy. Furthermore, lack of firm controls on the Board's spending contributes to the growth of the agency.

### Duplication of Functions with the Board of Barber Examiners

The duties and functions of the Board of Cosmetic Art Examiners and the Board of Barber Examiners are extremely similar. Despite their similarities, the Boards have entirely separate identities and operations; and the occupations they regulate, by law, are strictly segregated. Both Boards examine and license hair care professionals and establishments, and conduct inspections of shops for compliance with sanitary regulations. Each Board has the authority to collect fees, investigate complaints and to discipline members of its occupation. Barbers and cosmetologists each must have 1,500 hours of training and complete an apprenticeship before they can attain full licensure. Both groups are tested on hair cutting, shampooing, and chemical procedures.

The Barber and Cosmetology Boards evolved at a time when men's and women's hair styles were completely different and it was socially unacceptable for men and women to have their hair done in the same establishment. Today, however, it is not uncommon for men and women to have their hair cut in the same shop, and many hair styling methods for men and women are nearly identical. Most consumers would be unable to tell whether the person styling their hair had been trained as a barber or a cosmetologist.

The legal definition of cosmetology is almost exactly the same as that for barbering. Section 40-13-10 of the South Carolina 1976 Code of Laws defines the practice of cosmetology as:

The systematic massaging with the hands or mechanical apparatus of the scalp, face, neck, shoulders and hands; the use of cosmetic preparations and antiseptics in connection therewith; manicuring (except by manicurists employed in barbershops); cutting, dyeing, cleansing, arranging, dressing, waving, and marcelling of the hair; and the use of electricity for stimulating the growth of hair.

The definition of barbering as stated in Section 40-7-10 of the Code of Laws is:

Shaving or trimming the beard or cutting the hair; giving facial or scalp massages or treatments with oils, creams, lotions and other preparations, either by hand or mechanical appliances; singeing, shampooing or dyeing the hair or applying hair tonics; and applying cosmetic preparations, antiseptics, powders, oils, clays and lotions to the scalp, neck or face.

The only difference between barbering and cosmetology is that barbers can shave their customers and cosmetologists more or less "arrange" hair as opposed to just cutting it. Obviously both occupations concern the same basic activity - hair care - with only minor variations.

This type of specialized regulation is not found within other professions. For example, the State Board of Medical Examiners regulates all types of doctors, from pediatricians to brain surgeons, even though there are far greater differences between medical specialties than there are between barbering and cosmetology.

Several states, including Oregon, West Virginia, and Colorado have combined their barber and cosmetology boards. A 1978 Indiana Superior Court opinion ruled that the "practice of beauty culture is not a different or other business from that of barbering, but it is essentially and fundamentally the same type of pursuit or business." Another opinion from the Attorney General in Missouri found that barbers and cosmetologists should be allowed to practice in the same establishment.

The continued separation of the barbering and cosmetology occupations is cumbersome, unnecessary and results in duplication and wasteful funds. Presently, a licensed barber with 1,500 hours of educational experience and with years of work experience cannot work in a beauty

shop. In order to do so, the person would have to get another 1,500 hours of educational training, take another exam and pay for a cosmetology license. The Boards themselves recognize the basic similarities between the respective occupations and are considering a new rule that would give prospective barbers up to 1,000 hours credit for cosmetology training and vice-versa. The distinction between barbers and cosmetologists has been artificially maintained and does not serve the public interest.

#### Lack of Accountability of Teacher Seminar Funds

The present method of handling the funds for the required teacher seminar is questionable and leaves no accountability of the funds' proper use. In order to renew their licenses each year, the Board requires cosmetology teachers to attend an annual continuing education seminar. This seminar is sponsored by the Board in conjunction with the University of South Carolina and the National Association of Cosmetology Schools (NACS). Teachers must attend this seminar in order to renew their licenses. They only may receive Board permission to attend another seminar if an emergency prevents their attendance to the Board-sponsored seminar.

The seminar is organized by the chairperson of the Board. Since the inception of the seminar eighteen years ago, participants have been instructed to send seminar fees directly to the chairperson at her home. The average amount of fees collected is approximately \$9,000. Board members do not receive a financial statement which details the amount of funds collected, how the funds are used or whether a profit or deficit occurred. All fees are transferred to the NACS, an association of

private, profit-making schools. The NACS makes up any deficit which may occur or keeps any profits made. No other organization has been encouraged to set up a comparable seminar and the Board does not approve seminars organized by other trade groups.

According to the Board chairperson, the Board's legal counsel advised that the Board should not become involved in the funding of a seminar and that a financial backer should be found to sponsor the event. Subsequently, NACS was chosen. According to the Board, no written legal opinion was provided by the attorney.

Proper fiscal policy mandates that the funding for this Board program be accounted for. In the event that Board activity in this area is questioned, complete financial documentation should be available. Also, although the Board has no official responsibility for financing the seminar, one Board member is acting in an official capacity to organize and to handle the financial aspects of the event. It is also good policy to involve as many trade groups in the educational process as possible. This has the dual advantage of providing more diverse educational opportunities for teachers and gives teachers a more ample opportunity to fulfill educational requirements. At present several private companies and professional associations conduct training seminars.

The present method of conducting the required teacher seminar allows for no accountability. The fact that the Board merely sponsors the event, yet the chairperson handles all finances for the private group funding the seminar, places the Board in an area of questionable responsibility. It also leaves the Board in a precarious position should

the Board or NACS be accused of misuse of funds. Also the Board's policy of only accepting attendance of the NACS seminar for continuing education credit severely limits the scope of teacher education.

#### Inadequate Safeguards Against Possible Conflicts of Interest

The statutes, rules and regulations governing the conduct of the State Board of Cosmetic Art Examiners fail to adequately safeguard against possible conflicts of interest. Specifically, the statutes, rules and regulations do not include any provision against Board members selling supplies or services to members of the cosmetology occupation. Such is the case with one member of the Board who is part owner and incorporator of a beauty supply distributorship incorporated in 1977. The distributorship is managed by husband and daughter, and sells a specific brand of beauty care supplies. The company is the only wholesaler in the State for this beauty product, which is sold only to beauty shops, barbershops, and cosmetology and barber schools.

The Board does not regulate beauty shop distributorships and State law (Section 40-13-30 of the 1976 Code of Laws) only forbids Board members from having affiliation with cosmetology schools. However, State officials are forbidden to benefit financially from their positions by the statutory "rules of conduct" found in Section 8-13-410 of the 1976 Code of Laws. Any official with regulatory authority should never place himself or herself in a position where personal business could conflict with or benefit by government position. As a matter of public policy, officials should keep business interests entirely separate from the field they regulate. This problem is recognized by the statutes governing other Boards. For example, it is unlawful for members of



the Board of Barber Examiners to own any interest in a company which sells services or supplies to barbershops (Section 40-7-70 of the 1976 Code).

The relationship of this Board member with the ownership of a beauty supply distributorship creates a potential for a conflict of interest. This situation places the Board in a position to lose its creditability and to receive criticism from members of the cosmetology occupation. Cosmetologists and beauty shops might feel obliged to buy the beauty product sold by the distributorship, not through any overt action by this Board member, but simply because the Board holds power over their licenses and livelihood. Whether or not a conflict of interest actually exists, the appropriateness of a Board member owning a business which sells products to individuals licensed by the Board is questionable.

#### Inappropriate Testing of Board Members for Teacher's License

The Board's practice of giving the Teacher Licensure examination to fellow Board members is inappropriate. In 1977, one of the current members of the Cosmetology Board received her teacher license after she began her term on the Board. That is, she was examined and graded by fellow Board members for the cosmetology teacher's examination and after passing the test was issued a teacher license.

The Board has no policy for or against this practice. However, allowing Board members to take exams administered and graded by fellow Board members is questionable. Sound public policy would bar Board members from taking exams and obtaining licenses while serving on the Board.

It would be difficult for Board examiners to be objective in giving a test under these conditions. Furthermore, it leaves open the possibility that the Board members would have access to the test answers before taking the examination. This practice may give the Board members an unfair advantage in taking the test.

#### Lack of Public Participation

There is no input from the public on Board policies or decisions. By statute there are no "public" members sitting on the Board; rather, all Board members are registered cosmetologists principally nominated by trade associations (see p. 16). The Board did not begin to publicly announce their meetings until March of 1979. The public rarely attends Board meetings and then only to discuss complaints.

The main purpose of the Board's existence is to protect the public. However, under its present structure the Board only represents the cosmetologists' point of view. For example, it has actively sought the opinion of trade associations on various proposals and recommendations, but has never sought the public's input on an issue.

## SUNSET ISSUES AND EVALUATION

Act 608 of 1978, known as the Sunset Law, contains a series of eight issues which must be addressed in the review of each agency. These requirements encompass the areas of efficiency and effectiveness which will help determine the termination, continuation, or reestablishment of the agency and will also supply to the General Assembly an indication of the agency's public responsiveness and regulatory compliance. A summary of these issues and Audit Council's responses are presented in the following section.

- (1) DETERMINE THE AMOUNT OF THE INCREASE OR REDUCTION OF COSTS OF GOODS AND SERVICES CAUSED BY THE ADMINISTERING OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW.

The State Board of Cosmetic Art Examiners does not set prices so it has no direct influence on the cost of hair care to consumers. However, its rules and regulations are costs to the cosmetologist. Such costs include educational expenses (the 1,500 hours at a cosmetology school), examination fees, annual license fees, and costs associated with shops and schools meeting physical layout requirements. The Board has many unnecessary licensing requirements which may limit entry into the occupation and reduce competition. This may result in higher prices for the consumer.

The State also incurs expenses on behalf of the Board even though the Board is self-supporting. For example, the Board

must file an annual budget, submit to audits, provide insurance for its employees, etc. In doing so it uses the services of the Office of Budget Development, the Division of State Personnel, the State Auditor's Office, the Attorney General's Office and the Division of General Services. Simply by existing as a State agency it costs money and this is ultimately paid for by the taxpayers.

(2) WHAT ECONOMIC, FISCAL AND OTHER IMPACTS WOULD OCCUR IN THE ABSENCE OF THE ADMINISTERING OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW?

The termination of the Board of Cosmetic Art Examiners and the elimination of its programs would not represent a threat to the public health, safety and welfare. The Board's programs presently are not effectively protecting the public yet the public has suffered no harm. Handling consumer complaints, protecting students who attend private cosmetology schools and ensuring proper health standards can be carried out by other State agencies.

The economic impact of the absence of the Board would be approximately \$200,000 a year in fees not collected from cosmetologists, beauty shops, teachers and schools. The State General Fund would lose approximately \$40,000 annually which is the net gain in revenues after Board expenditures are paid. In addition prices for the consumer might go down since less government regulation will promote more competition and possibly lower prices.

One other impact of the absence of the Board is that cosmetologists would lose the professional enhancement, status and prestige which State regulation brings. However, the advancement

of the social and economic interests of a profession should not be the role of government and is better left to the professional and trade associations.

- (3) DETERMINE THE OVERALL COSTS, INCLUDING MANPOWER, OF THE AGENCY UNDER REVIEW.

The overall cost of the Board was \$148,949 in FY 77-78 and projected expenditures for FY 78-79 are \$168,000. All expenditures are recouped through the fees charged by the Board (see p. 22).

- (4) EVALUATE THE EFFICIENCY OF THE ADMINISTRATION OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW.

Several functions of the Board are inefficient and costly. The annual renewal of licenses generates a tremendous amount of paperwork and is unnecessary (see p. 29). Many of the records the Board requires from cosmetology schools and students are burdensome, and never used, but require two staff members to process them. For example, monthly reports of students' classroom hours must be submitted twice: once a month when they are sent to the Board and again when the student is ready to take the exam. This is unnecessary. In addition, Board members have not coordinated travel times and have claimed per diem and travel expenses for questionable reasons. This causes an inefficient use of funds (see p. 39). The information from complaint and inspection reports is not used since complaint statistics are not compiled and the outcome of most complaints is not recorded (see p. 33).

- (5) DETERMINE THE EXTENT TO WHICH THE AGENCY UNDER REVIEW HAS ENCOURAGED THE PARTICIPATION OF THE PUBLIC AND, IF APPLICABLE, THE INDUSTRY IT REGULATES.

There has been little effort by the Board to encourage public participation. By statute there are no public representatives on the Board, and consumers never attend Board meetings unless they come to discuss a complaint (see p. 47).

- (6) DETERMINE THE EXTENT TO WHICH THE AGENCY DUPLICATES THE SERVICES, FUNCTIONS AND PROGRAMS ADMINISTERED BY ANY OTHER STATE, FEDERAL OR OTHER AGENCY OR ENTITY.

Most of the functions of the Board duplicate the programs or responsibilities of other State agencies. Notwithstanding that the Council has concluded that regulation of hair care is not needed, the Board's entire regulation of hair care is a duplication of the Board of Barber Examiners (see p. 41). The Department of Education through its Division of Trade and Industrial Education and its State Approving Section, has the same function in regulating private trade schools as the Board does in its regulation of cosmetology schools (see p. 36). There also exists a national cosmetology school accrediting firm which sanctions schools meeting their standards. The Department of Health and Environmental Control through local Health Departments maintains health standards and the Department of Consumer Affairs has responsibility for handling consumer complaints. Both of these functions are also handled by the Board (see p. 30 and 33).

- (7) EVALUATE THE EFFICIENCY WITH WHICH FORMAL PUBLIC COMPLAINTS FILED WITH THE AGENCY CONCERNING PERSONS OR INDUSTRIES SUBJECT TO THE REGULATION AND ADMINISTRATION OF THE AGENCY UNDER REVIEW HAVE BEEN PROCESSED.

The Board does not respond quickly to public complaints. The Council found instances where the Board waited two months to meet with consumers concerning complaints of damaged hair. By this time the damaged hair had grown out and the persons chose not to meet with the Board. Most of the complaints handled by the Board come from members of the occupation and not the public. The Board does not keep a log of complaints it receives, it has no procedures for maintaining complaint histories on cosmetologists or shops, and it does not compile complaints in order to analyze them (see p. 33).

- (8) DETERMINE THE EXTENT TO WHICH THE AGENCY UNDER REVIEW HAS COMPLIED WITH ALL APPLICABLE STATE, FEDERAL AND LOCAL STATUTES AND REGULATIONS.

The Board is complying with all applicable State Regulations, and there are no Federal Regulations governing cosmetology. However, some travel expenses are questionable and the Board is not following the State's policy to be "careful and prudent" about traveling and expenses (see p. 39).

PART 2

REVIEW OF THE  
BOARD OF BARBER EXAMINERS



## BACKGROUND AND HISTORY

Barbering and its regulation have been in existence for many centuries. At one time barbers engaged in certain minor surgical procedures, although today such practices are strictly prohibited. Barber regulation was first enacted in the United States by the State of Oregon in 1889. The South Carolina State Board of Barber Examiners was created in 1937 to license and regulate the practice of barbering. The purpose or intent of such regulation is not specified in the statutes. However, it can be assumed the intent in South Carolina was similar to that of regulation in other states to protect the public from communicable diseases and unsanitary shop conditions.

The present Board is composed of five members, appointed by the Governor for terms of four years. Each member must be an experienced barber who has practiced the occupation in South Carolina for at least five years, and is not affiliated with any barber schools or barber supply companies. Although the present Board members have all been appointed within the last eight years, there is no limit on the number of terms they may serve. One member who retired from the Board in 1976 had served for thirty-four years.

Primary responsibilities of the Board are to inspect and license barber schools and shops; examine and license persons wishing to enter the occupation of barbering; and promulgate and enforce rules and regulations pertaining to barbering in South Carolina. The Board serves as the liaison between licensees and the public, students and the schools, and members of the occupation. Inherent in this liaison capacity is the investigation and handling of complaints. The Board is empowered

to revoke or suspend any license for various causes, including: conviction of a felony, gross malpractice, habitual drunkenness, and misrepresentation in obtaining a license. Persons who disregard the rules and regulations of the Board may be guilty of a misdemeanor and fined up to \$100 or 30 days, according to Section 40-7-220 of the 1976 S. C. Code of Laws.

Barbershops and schools are subject to inspection by the Board at any time during business hours. Sanitary rules and regulations promulgated by the Board and approved by the Department of Health and Environmental Control are the criteria for these inspections. Proper licensing of the shop and of all barbers is also checked during these inspections.

Persons wishing to enter the field of barbering must undergo an extensive educational and examination process prescribed by the Board. The Board allows a student the option of barber school or barbershop training in seeking licensure. After the initial training in a school or shop, a student must pass an apprentice examination given by the Board and work as a licensed Apprentice for eighteen months. After the apprenticeship period is over, an examination for Registered Barbers is required by the Board. Passage of this exam completes the training process and produces a licensed Registered Barber. In 1976, the Board created the title of barber assistant for persons employed in barbershops who give shampoos and manicures only. Barber assistants must also be tested and licensed by the Board. The Board administers its examinations for the various types of licenses monthly.

All licenses issued by the Board expire June 30th of each year and must be renewed prior to that date. Failure to renew a license by this

date results in a late fee in addition to the normal renewal fee charged by the Board. Currently, the Board issues over 4,600 licenses of various kinds annually. The following table reveals licensing activity in recent years.

TABLE 1  
LICENSING ACTIVITY OF BOARD OF BARBER EXAMINERS  
1973 - 1978

	<u>73-74</u>	<u>74-75</u>	<u>75-76</u>	<u>76-77</u>	<u>77-78</u>
Student Permits	166	174	207	218	316
Apprentice Licenses	163	134	146	218	247
Registered Barber Licenses	2,981	2,871	2,794	2,697	2,680
Barber Assistants	-	-	-	1	4
Shop Licenses	1,590	1,513	1,487	1,476	1,443
Teachers Licenses	<u>6</u>	<u>6</u>	<u>9</u>	<u>12</u>	<u>13</u>
TOTAL	4,906	4,698	4,643	4,622	4,703

### Fees

Total operating expenses for the Board are derived from examination and license fees. Table 2 provides a schedule of these various fees charged by the Board. South Carolina's fees for testing and licensing apprentices and registered barbers are slightly higher when compared to the fees charged by other states' boards. This is because there are fewer barbers in South Carolina than in many other states.

TABLE 2  
SCHEDULE OF EXAMINATION AND LICENSURE FEES

<u>Type of Fee</u>	<u>Cost</u>	<u>Frequency</u>
Student permit	\$ 7.50	once
Apprentice barber examination	\$25.00	once
Apprentice license	\$ 7.50	2-3 times during apprenticeship
Apprentice license late fee	\$ 7.50	when applicable
Registered barber examination	\$25.00	once
Registered barber license	\$15.00	yearly
Registered barber license late fee	\$10.00	when applicable
Barber assistant examination	\$25.00	once
Barber assistant license	\$10.00	yearly
OJT Instructor (shop) examination	\$25.00	once
OJT Instructor (shop) license	\$25.00	once
Instructor (school) examination	\$65.00	once
Instructor (school) license	\$35.00	yearly
Inspection of new barbershop	\$50.00	prior to opening
Barbershop license	\$15.00	yearly
Shop license late fee	\$20.00	when applicable
Inspection of new barber school	\$85.00	prior to opening
Barber school license	\$50.00	yearly
Reciprocity barber license	\$50.00	when applicable

### Reciprocity

In 1978, South Carolina amended its requirements for the licensure of nonresidents. Currently, the State accepts licensees from all states without reexamination when the following conditions are met: 1) proof of active practice in barbering for the preceding two years; 2) verification of licensee's good standing from prior State Board, 3) completed application for registration with South Carolina Board of Barber Examiners and an application fee of \$50.

South Carolina has formal reciprocity agreements with four states: West Virginia, Tennessee, Maryland, and Georgia. These formal agreements provide for those states' acceptance of licensed South Carolina barbers without reexamination when specified conditions are met.

### Budget and Staff

Board expenditures during FY 77-78 totaled \$76,584. Eighty percent of these expenditures were for personnel, per diem for Board members, and travel (See Table 3). The Board's Five-Year Plan projects that by FY 83-84 expenditures will total \$128,496, an increase primarily due to inflation since the Board does not anticipate any significant growth in licensing activity or staff size.

In addition to the five Board members, the Board of Barber Examiners employs three full-time inspectors, one full-time secretarial staff person, and one part-time clerical staff person. Temporary help is normally hired by the Board during license renewal period in late spring and early summer. In 1976, the Board came under the financial management of the Comptroller General's Office. The Board's secretarial person presently devotes at least 55% of her time (19 hours per week) in completing forms and reports in connection with State Government and administration.

TABLE 3  
SOUTH CAROLINA BOARD OF BARBER EXAMINERS

Statement of Sources and Uses of Funds for  
the Five-Year Period Ended June 30, 1978

	<u>1973-74</u>	<u>1974-75</u>	<u>1975-76</u>	<u>1976-77</u>	<u>1977-78</u>
<b>SOURCES OF FUNDS:</b>					
Fees - licensing	\$50,975	\$52,597	\$36,710	\$65,222	\$71,145
Fees - examination	3,375	3,255	3,065	5,155	5,795
Fees - student permit	830	870	1,035	1,965	2,340
Miscellaneous income	422	535	997	2,330	3,808
Balance from previous year	<u>27,266</u>	<u>23,339</u>	<u>22,434</u>	<u>*</u>	<u>*</u>
<b>TOTAL REVENUE</b>	<u><b>\$82,868</b></u>	<u><b>\$80,596</b></u>	<u><b>\$64,241</b></u>	<u><b>\$74,672</b></u>	<u><b>\$83,088</b></u>
<b>USES OF FUNDS:</b>					
Personal service	\$34,297	\$32,127	\$34,750	\$33,249	\$43,899
Travel	12,133	11,984	9,921	11,763	17,973
Telegraph and telephone	594	442	739	673	1,035
Printing, binding and advertising	1,457	1,643	666	61	
Professional and other fees	1,113	1,530	5,662	488	805
Examination expenses	148	181	213		
Convention and meeting expenses	676	694	900		50
Postage	819	988	1,308	1,065	640
Office supplies			372	1,868	1,845
Educational supplies	286	504	202	103	
Equipment			290	1,257	314
Rents	1,950	1,982	2,402	2,346	3,470
Insurance and bonds	200	122	131	243	175
Employee benefits	5,025	4,117	5,584		6,019
Miscellaneous expenses	<u>277</u>	<u>378</u>	<u>178</u>	<u>311</u>	<u>359</u>
<b>TOTAL EXPENSES</b>	<u><b>\$58,975</b></u>	<u><b>\$56,692</b></u>	<u><b>\$63,318</b></u>	<u><b>\$53,427</b></u>	<u><b>\$76,584</b></u>

\*In 1976 the Board came under the financial administration of the Comptroller General and these balances went into the General Fund.

Sources: Lee and Schraibman annual audits, 1973-74, 1974-75.  
State Budget and Control Board 1975-76, 1976-77, 1977-78.

## ISSUES AND FINDINGS

### Examination and Licensure Process Not Needed to Protect the Public

One of the primary functions of the Board of Barber Examiners is the examination and licensure of all persons entering the occupation. The three main types of licenses issued by the Board are: Apprentice, Registered Barber, and Barber Assistant. There are three phases in the licensing process that a person must complete in order to become a licensed barber:

- (1) Complete 1,500 hours (9½ months) of training at a barber school or 12 months of training in a barbershop.
- (2) Pass a written and practical examination and work as an Apprentice for 18 months.
- (3) Pass another written and practical examination and become a Registered Barber.

The Audit Council reviewed the Board's examination and licensure functions, policies and procedures, and found that these measures of competency are only superficial, and really are not needed to protect the public. According to Dr. Benjamin Shimberg, Associate Director for the Center for Occupational and Professional Assessment, and a noted authority on occupational regulation, "licensure should be used only as a remedy of last resort." A restrictive, multi-leveled licensing process is not needed when the minor discomfort of a bad hair style is the worst threat to the public.

The Council found the educational standards required by the Board are excessive and serve only to limit entry into the barbering occupation. In addition, the Council found the examination process to be unnecessary, the need for the 18-month apprenticeship period to be

obsolete and the yearly renewal of licenses to be inefficient. The details and problems of each step in the licensing process administered by the Board are discussed in the following pages.

(1) Educational Requirements Too Restrictive

The Council analyzed the educational requirements and found them excessive, restrictive and not always job-related. The first requirement an individual desiring to become a barber must fulfill is to complete 1,500 hours of educational training in a barber school or twelve months training in a barbershop (Section 40-7-100 of the 1976 S. C. Code of Laws). The majority of individuals attend a barber school for the required educational training. An analysis of apprentice applications of students from July 1976 to April 1979 revealed that 42% of the students were trained in barber-shops and 58% were trained in private and vocational barber schools. This training is required before a person can be examined and tested for an apprentice license - the second step in becoming a licensed barber. The 1,500 hours of instruction in a private barber school takes about 9½ months to complete and costs anywhere from \$900 to \$1,600, depending on the school. Financial arrangements of barbers training students in their shops are determined by the individual barber and student.

The required curriculum includes at least one hour of instruction per day from a textbook chosen by the Board. Subjects covered include anatomy, elementary chemistry, the history of barbering, and professional ethics. These subjects do not directly relate to the ability to give a good haircut. Students cannot take



the apprentice examination regardless of the skills they have developed until the 1,500 hour or twelve-month requirement is met.

The purpose of educational requirements in the licensing process is to assure a minimum level of practitioner competency for the public's protection. Excessive requirements deny individuals entry into the occupation and marketplace. Some students need less training than others to be successful in the occupation and should not be restricted from entering the marketplace.

The public would not be seriously harmed if the educational requirements were eliminated. Mandatory completion of the 1,500 hours provides the schools, most of which are private businesses, with a captive market of students. This requirement demands that students attend and remain in school although they might already possess the skills to be successful barbers. Similarly, the twelve-month period in a shop prohibits a student who is sufficiently trained after less than twelve months from progressing at the earliest possible date.

Students in barber schools and in shops are allowed to cut the public's hair. Furthermore, college or university students practicing barbering on classmates to help pay their tuition have always been exempted from regulation. The Council could find no evidence of public harm from these practices.

These educational requirements restrict entry into the occupation which may lead to higher costs to the public. In addition, barber schools which are private businesses are provided a captive market of students controlled and supported by the Board. Obviously the only threat to the public is a bad haircut/hair style and

this is not sufficient to require barbers to undergo excessive and costly training.

(2) Examinations Not Needed to Ensure Competency

The Board has developed a series of practical and written examinations in order to restrict the entry of unskilled persons into the barber field. An analysis of these exams revealed that they do not ensure competency and are not the best way of keeping unskilled barbers from the public.

The examinations for the Apprentice and Registered Barber are almost identical in nature and test the same skills. Both exams are composed of a written test, oral questions, and a practical demonstration of skills. One textbook serves as the source of the written and oral test questions for both examinations. The two written tests contain many of the same questions and much of the knowledge tested is irrelevant, such as how many hairs a person with red hair should have, and how many members are on the Board.

The practical demonstration required of Apprentice and Registered Barber examinees includes a shampoo, massage, shave and haircut on a live model. Passage of the practical portion is based entirely on the subjective judgement of two Board members and the skills tested are not necessarily relevant to customer demands. For example, all persons must demonstrate the ability to give a taper haircut (the traditional short-cropped haircut tapered at the neck) before they can become a licensed barber. This requirement is discriminatory and does not take into account current trends in hair styles or the type of hair styles generally preferred by

blacks and women. According to barber school instructors, the type of haircut that a barber would give a black person or that a black person would request is definitely different from that type of haircut tested by the practical exam. Furthermore, shaves are not as popular a service in barbershops as they once were, and are seldom requested by most customers. Demonstration of these skills and passage of the exam in no way assures that the licensee will be able to satisfy public standards despite meeting the Board's criteria.

Once a person becomes a licensed barber and continues to renew his license annually, he is never tested again. The average percentage of persons passing the exams in the last five years was 93% and 91% for Apprentices and Registered Barbers respectively.

If an exam is used to determine whether a person is qualified for licensure, then it should measure how well the person will perform on the job. The written examination for the Apprentice and Registered Barber licenses merely revalidates textbook learning, much of which is irrelevant to actual job performance. It measures the elements that have gone into preparing persons for an occupation, and not elements related to actual on-the-job performance. In addition, the practical exam is based entirely on the Board member's subjective judgement.

An examination cannot really measure the competency of a barber, nor is it needed to protect members of the public. However, this has resulted in no harm to the public. The competitive marketplace provides a more realistic and objective assessment of qualifications. Public standards and customer satisfaction are the best judge of a barber's abilities, not the one time testing of an individual

which is based partly on the personal opinion of Board members. A barber's success in his or her chosen field is determined by and dependent upon the ability to cut hair. Barbers who are not competent will be unable to remain in the marketplace when their dissatisfied customers choose other barbers. Such incompetence might result in an unattractive haircut/hair style, yet no permanent harm or damage will have been rendered to the general public. Rather, this complex examination process enforced by the Board serves to restrict entry into the occupation without assuring quality barbers.

(3) Apprenticeship Licensure Unnecessary

The completion of the barber apprenticeship period of 18 months as required by the Board provides no additional protection or benefits to the public and only serves to provide the Board with a source of revenue. After completion of the required 1,500 hours in a barber school or twelve months shop training, the student must pass a written and practical examination given by the Board in order to serve as a licensed Apprentice barber for a period of 18 months. There is no difference in the price or type of service which the Apprentice or Registered Barber may offer a customer. The only distinction between an Apprentice and a Registered Barber is that Apprentices cannot own or manage shops, and they must work under the supervision of a Registered Barber.

Traditionally, apprentices were taken into a shop and taught a trade by an experienced person when educational training in that occupation was not available. Today, however, the apprenticeship

requirement for barbers serves a different purpose. Board members and staff acknowledge that the income derived from the examination and licensure of Apprentices is necessary for the Board's operation. The Board cannot financially afford to eliminate the apprenticeship requirement. Board members admit that the apprenticeship period is purely for the benefit of the profession, not the public.

The 18-month apprenticeship period provides no additional benefits or protection to the public. No harm would occur without such a requirement. At least seven other states do not require an apprenticeship period. There is no uniformity among states which do require an apprenticeship; the time required ranges from six to thirty-six months. The mobility of qualified persons within an occupation should not be limited by unjustified restrictions. The marketplace can identify and evaluate the competency of the novice barber more effectively than any apprenticeship period.

The apprenticeship period is a superficial barrier which restricts entry into the occupation and benefits only those barbers already established in the occupation. By forcing Apprentices to work under Registered Barbers, the occupation is controlling its own membership. If a person is unable to get a job as an Apprentice, then he or she cannot become fully licensed. In addition, the initial earning capabilities of the new barber are restricted since he cannot own or manage his own barbershop. Thus, the number of shops is limited, reducing competition for barbers already in business. Such restrictive practices may result in higher prices to the public.

(4) Licensing of Barber Assistants Not Needed

The Audit Council found that the regulation and licensure of barber assistants is not warranted and does not protect the public. The barber assistant license is issued to an individual to give shampoos and manicures in barbershops. Such persons are not allowed to shave or give haircuts to customers. In order to become a barber assistant a person must work under the supervision of an approved registered barber for six months, pass a written test composed by the Board, and give a practical demonstration of a shampoo and/or manicure acceptable to the Board.

Since the creation of the barber assistant license in 1976, only nine people have become licensed barber assistants as of March 1979. The services which barber assistants can provide are extremely limited and no harm exists to the public from an improperly done shampoo or manicure. The licensure of barber assistants is only another way of restricting entry into the marketplace and exemplifies unnecessary government regulation.

(5) License Renewal Inefficient

All licenses issued by the Board including barbers, apprentices, barber assistants, teachers, and barbershops must be renewed every year. Annual renewal of barber licenses is inefficient, costly and serves no useful purpose. More than 4,600 licenses are scheduled for renewal in June of each year and are handled manually by the Board's staff. At that time each license is renewed and a new license number issued. This generates a vast amount of paperwork, increases the staff workload, and requires the Board to hire part-time help.

According to the Board, annual license renewal is needed in order to protect the public since every apprentice and barber is required to take a TB test annually. In addition, this helps the Board keep track of all persons in the occupation. The major reason, however, for annual license renewal is to generate the revenue for the Board's continued existence.

Annual license renewal does not reassess competency or in any way protect the public. In addition, the TB test is no longer needed (see p. 69). Other states have abolished the requirement for annual licensing and many other occupational Boards issue licenses biennially or permanently. Yearly renewal of licenses costs time and money for the Board and barbers.

#### Unnecessary Health Regulations and Barbershop Inspections

The Board of Barber Examiners' health rules and regulations and barbershop inspections are ineffective and unnecessary. Barbershop inspections are irregular and do not affect the sanitary conditions in the shops. Most of the health regulations are either no longer applicable or inherently unenforceable. Public health, however, has not been affected nor endangered. The Council found that a primary purpose of the inspections process was not to protect public health but to ensure that practitioners' licenses are current and to locate barbers so that fees can be collected.

The Board employs three inspectors, each with an assigned territory, to inspect the State's approximately 1,400 barbershops. The health rules and regulations developed by the Board and approved by the Department of Health and Environmental Control (DHEC) serve as

the criteria for these inspections. Shops are normally inspected about three times a year, however, no regular schedule exists in the inspection procedure. How often a shop is inspected depends entirely on the discretion of the inspector in that area. One inspector interviewed by the Council did not know how many shops were in his territory, and thus had no clear knowledge of his inspection responsibilities. Examination of Board minutes revealed a shop which had not been inspected in over 13 years, from February 1964 to November 1977.

Many of the regulations are no longer needed. For example, every barber is required to obtain a tuberculosis skin test or chest X-ray every year in order to renew his/her license. This TB test is unnecessary. According to a spokesman for the Bureau of Environmental Sanitation at DHEC, tuberculosis is no longer a public health threat and the chances are "infinitesimal" that a barber will transmit this disease to a customer. TB infection occurs only after prolonged contact, the spokesman said. The threat to the public from TB is so slight that even food handlers are no longer required by DHEC to take a TB test.

Other regulations are impossible to enforce. Each barber is required to wash his hands thoroughly before serving a customer; to use clean, freshly laundered towels for each patron; and to sterilize all instruments between use. In addition, all fixtures including cabinets, shampoo, and toilet facilities are to be kept in a sanitary manner at all times. Three fifteen minute visits a year by a shop inspector is not sufficient to enforce any of these rules. The shop inspection at its very best only measures those conditions at the time of the visit. It does not ensure that the shop will be clean 2 hours later much less 2 months later.



No consistent records of inspections are maintained by the Board. The only documentation of inspections are the inspection booklets used by the inspectors and these are seldom reviewed by the Board. These booklets contain the reports of the shops inspected during the week. According to Board staff, the inspection booklets dated prior to FY 77-78 were discarded. The remaining booklets are stored, in no apparent order, in a closet in the men's restroom of a private business office adjoining the office of the Barber Board.

The Council also found that grading of barbershops is not applied on a consistent basis by the inspectors nor is any follow-up documented. An inspector assigns the shop a numerical grade based on a checklist of 100 points. The grade received reflects only the condition of the shop at the time of inspection and such conditions can vary considerably from day to day. The Council reviewed the inspection booklets available and found examples of improper and incomplete inspection reports, with no numerical points assigned and no inspection grades given. Yet, these shops apparently "passed" inspection. There was no way to determine if any follow-up is done on shops where violations are noted, nor is there any way to spot a chronic offender. Owners of shops receiving grades below 70 are supposed to be given 30 days to bring their shops into compliance with the health regulations. However, the Board has no means of assuring that follow-up inspections are actually conducted nor do they have any way of spotting a chronic offender since each inspection is recorded separately and no inspection histories of shops are maintained.

Lack of documentation prevented an accurate analysis of the Board's inspections and disciplinary actions against violators of the health

regulations. However, according to Board members and staff, no shop has ever been closed nor has a license been revoked by the Board for sanitary or any other reasons. Board minutes provide the only record of complaints and problems dealt with by the Board. In the past five years, only twenty-five instances of unsanitary shops were noted in the minutes. According to the inspectors, most of the violations are either discovered during inspections or are reported by other barbers. Few consumer complaints are ever received by the Board concerning unsanitary barbershops. The Council could find no documentation of consumer complaints concerning the sanitary conditions of a shop.

The Council staff accompanied an inspector on visits to three different barbershops in Columbia. One of the shops was termed by the inspector as "the dirtiest shop in town" and was included four times in the twenty-five instances mentioned in the Board minutes. Problems with this shop's cleanliness have been noted by the Board as long as four years ago, when the inspector unsuccessfully recommended that it be closed. It is impossible to determine from the Board's records what actions, if any, have been taken against this shop. Despite this shop's dirty condition, the barbers working there were doing a substantial amount of business at the time of the inspection, and the inspection grade received was a 70.

The health regulations and barbershop inspections were established to protect the public health. When the Board was created in 1937 the threat of communicable diseases was more prevalent. However, there is no evidence today to show that barbers and barbershops present a potential hazard to the public health. According to DHEC's Bureau of Environmental Health, most sanitary rules and regulations were developed

in this State at a time when infectious diseases were a real problem. Today, advances in health care and waste treatment have all but eliminated serious contagions and have made many health regulations obsolete. At worst, a dirty shop is only a discomfort, not a health hazard, to consumers.

According to one inspector, the sanitary conditions of a shop do not really affect the amount of business done by the shop. Clean well-kept shops stay clean in order to attract a certain type of clientele, regardless of the Board's inspections. Dirty shops, such as the one visited by the Council, also manage to attract sufficient customers to remain open. Most of the sanitary regulations are common sense health practices which should be used routinely by all businesses serving the public and do not warrant specific enforcement by the Board. If consumers had complaints dealing with the health conditions of a barbershop, they could best be handled by the local health department.

The Board's ineffective enforcement of health regulations has brought no serious harm to the public. The inspection process is an example of government regulation and paperwork that is not relevant nor needed. As a result, approximately \$143,000 has been spent within the past five years on an activity that is not needed to protect the public health.

#### Inadequate Handling of Complaints

The Board has no systematic method of handling complaints. The Board does not have records of complaints or the actions taken as a result of the complaints. Neither a standard complaint form nor a complaint log are kept. The only documentation of complaints is what is

recorded in the Board's minutes. The Council examined the minutes of monthly Board meetings from July 1974 to April 1979 and found them too incomplete to accurately determine the number of complaints made or who made them. Only two public complaints dealing with dissatisfaction over a haircut were documented in the minutes. In one case, the complainant, a female, was informed that the Board could do nothing about her complaint because barbers were tested on men's hair and not women's.

One hundred eighty-two other instances were recorded in the minutes ranging from unsanitary conditions in barbershops to licensing violations. No details were given as to whether these instances were complaints originating from the inspectors, other barbers or the public. According to the inspectors most complaints dealing with barbers and barbershops involve licensing violations and are made not by the consumer but by other barbers.

The Board has no established procedures for handling complaints but tries to settle them informally. The statutes give the Board the power to take disciplinary action for several kinds of offenses, including "gross incompetence." Yet it has established no formal guidelines as to what constitutes "gross incompetence." Overall the Board lacks disciplinary guidelines on when and how to discipline barbers and whether an offense merits a reprimand, a Board hearing, or a formal hearing with attorneys present.

The Board rarely takes disciplinary actions against barbers. There was no documentation available of any disciplinary action taken as a result of the two consumer complaints. Whatever disciplinary actions that have been taken by the Board are so poorly documented that it is

difficult to assess their appropriateness. Inspectors do sign warrants against barbers, primarily for licensing violations. However, the Board has no official record of those persons arrested for violation of the barbering regulations and the outcome of those arrests. According to Board members and staff, no barber license has ever been revoked or shop permanently closed in the history of the Board.

The Board has operated over forty years without developing any procedures for documenting and handling complaints. During the course of this audit in April 1979, the Board passed a motion to begin keeping a record of all complaints and their disposition.

Information on the number of complaints reported by dissatisfied customers could prove useful to the public in choosing a barber, although no real risks or dangers are present in such a choice. Often complaints can serve as the initial step in an investigation of violations, and legitimate complaints should be properly handled. However, the general public is unaware of the Board's complaint responsibility as evidenced by only two public complaints in the last five years. The Department of Consumer Affairs, with established procedures for the documentation of complaints and representation of consumers, is the most visible and appropriate agency to handle such a function.

#### Duplication in the Regulation of Barber Schools

The Board of Barber Examiners' functions of regulating and approving barber schools duplicates the responsibility of the Department of Education and other available organizations. The Board licenses and approves all barber schools in South Carolina. There are four private schools, one vocational school and two schools associated with the Department of

Corrections currently licensed. All curriculums, whether in private, profit-making schools or in vocational and correctional schools, are approved by the Board. The Board regulates teachers, teacher-student ratios, the type of equipment needed, the size of classroom and work areas, the type of courses, and the number of hours which must be taught. The Board requires monthly reports on the number of hours credited to the student for each course taken, although verification of this information is not sought by the Board. Barber schools are also required to be inspected by the Board for compliance with Board health rules and regulations.

The Department of Education also has responsibility for regulating barber schools. The Department's State Approving Section certifies eligible barber schools to train veterans who receive funds under the G. I. Bill. The purpose of this regulation is to satisfy Federal requirements that veterans are receiving the education they are paid for. Fifty-six veterans attended barber schools in this State during FY 77-78.

The State Approving Section also has regulatory authority over private, non-degree, profit-making schools. Such schools include flying, modeling and business schools. Private barber schools are exempted from this oversight as long as they are regulated by the Board. If the Board did not exist, barber schools would fall within the State Approving Office's authority. Under Section 59-59-30 of the 1976 S. C. Code of Laws, the State Approving Section has the authority to set standards for curriculum, equipment, classroom size, and teachers. In addition, it serves to ensure that students receive a quality education for their tuition. It also requires that student contracts have a minimum cancellation and refund policy to protect the student if he or she drops

out of school. In addition, for students to qualify for various Federal educational assistance programs, a barber school must be accredited by the National Association of Trade and Technical Schools (NATTS), a nationally recognized accrediting organization.

Protection of the student is the primary reason for regulating barber schools. Regulation should be accomplished in the most efficient and effective manner while ensuring that students receive a quality education for their money. This function exists more appropriately in the Department of Education which has full-time staff with the expertise in educational techniques to effectively regulate the barber schools on the State level. The Department is now regulating other occupational and trade schools. In addition, groups such as NATTS provide a national network of quality assurance. Separate regulation of schools by the Board is unnecessary and costly. Its elimination would not in any way effect the real purpose of this oversight - protection of the students.

#### Inappropriate Travel and Per Diem Expenses

Inappropriate travel and per diem expenses are claimed by Board members and staff. Travel expenses claimed by the Board of Barber Examiners amounted to \$17,868 in FY 77-78. Per diem payments for Board members was \$5,495. The Council examined the Board's travel vouchers for the period July 1978 to April 1979 and found numerous instances of highly questionable travel and per diem reimbursements. Some examples of these inappropriate expenses are as follows:

- (1) One Board member claimed reimbursement for 395 auto miles when the supporting documentation indicated only 260 miles were traveled.
- (2) An inspector claimed mileage on several occasions in excess of the miles actually recorded. That same inspector also claimed mileage and lodging expenses for a trip to Columbia for a doctor's appointment scheduled the day before a special Board meeting. This inspector was the only person who sought overnight accommodations for that special meeting.
- (3) In another instance, an inspector and a Board member worked together in the field and used one car. Yet, expense reports for that day reveal that both persons claimed mileage reimbursement.
- (4) When the inspector in the Columbia area works at the Board office rather than visiting shops, he inappropriately claims mileage to and from the office and his home, and \$3.50 for his lunch expense.
- (5) The Board's secretary claimed 2,616 miles and was reimbursed \$403 in a ten-month period for in-town travel. Mileage claimed by the secretary averages 13 miles per working day and 262 miles per month. This in-town travel primarily involved trips to the bank, post office, and Comptroller General's Office. The Board is located less than one mile from the post office, bank, and Capital. Thirteen miles per day is excessive and questionable travel for the destinations listed on expense reports and also for the duties of the secretary's job.
- (6) Monthly Board meetings and examinations are held in Columbia, necessitating out-of-town travel for most of the members and the



inspectors. Exams begin at 9:00 a.m. and the Board meeting, held after the exams, usually ends in the early afternoon of the same day. All the Board members and inspectors can commute to the meetings in approximately two hours. Yet, out-of-town Board members and inspectors normally arrive in Columbia the evening prior to the scheduled Board meeting, and get reimbursed for lodging, meals and per diem for that night.

- (7) Per diem reimbursement is inconsistent from member to member for the same attendance at meetings. Some Board members regularly charge two days per diem for the monthly Board meeting while others claim only one day despite an equal amount of time spent on Board business.
- (8) Two Board members who attended a convention charged six days of per diem for only five days' travel. The Comptroller's Office discovered the extra day and it was not reimbursed.

Such questionable expense claims reflect a disregard by the Board and staff of the intent of expense reimbursements. Lack of internal controls and inadequate documentation contribute to the misuse of travel allowances. The secretary, hired and paid by the Board, is not in a position to question the expenses claimed by the Board, despite apparent excesses and inaccuracies. In addition, the daily reports filled out by Board members and staff are insufficiently documented and fail to justify the travel expenses claimed. There is no limit on the number of days per diem a Board member may claim, other than the constraints of the Board's budget.

Overnight accommodations each month are unnecessary, as the Board, with proper scheduling, could easily conduct its business in one day and the participants could return to their residences at a reasonable hour. Examinees could avoid the expense of overnight accommodations if the examinations were scheduled later in the morning, and the Board members remained slightly later in the afternoon.

The State's travel regulations dictate that a person on official business should exercise the same care in incurring expenses and accomplishing an assignment as a prudent person would exercise if traveling on personal business. The intent of travel and per diem allowances is to reimburse a person on official business of the State for reasonable expenses incurred, not to provide additional financial gain.

Insufficient documentation prohibited an analysis of Board activities compared to Board travel and expense claims. Thus, it was impossible to determine what percentage of the Board's travel and per diem reimbursements were inappropriate. However, reimbursement of excessive mileage, questionable per diem and unnecessary lodging accommodations results in misuse of State funds and allows Board members and staff to receive supplemental income in addition to reimbursement of actual travel expenses incurred.

#### Duplication of Functions with the Board of Cosmetic Art Examiners

Even though the functions of the Board of Barber Examiners and the Board of Cosmetic Art Examiners are extremely similar, these Boards maintain entirely separate identities and operations; the occupations they regulate, by law, are strictly segregated. Both Boards examine and license hair care professionals and establishments and conduct

inspections of shops for compliance with sanitary regulations. Each Board has the authority to collect fees, investigate complaints and to discipline members of its profession. Barbers and cosmetologists both must have 1,500 hours of training and complete an apprenticeship before they can attain full licensure. Both groups are tested on hair cutting, shampooing, and chemical procedures.

The Barber and Cosmetic Art Boards evolved at a time when men and women's hair styles were completely different and it was socially unacceptable for men and women to have their hair styled in the same establishment. Today, however, it is not uncommon for men and women to have their hair cut in the same shop, and many hair styling methods for men and women are nearly identical. Most consumers would be unable to tell whether the person styling their hair had been trained as a barber or cosmetologist.

According to State law the legal definitions of barbering and cosmetology are extremely similar. Section 40-7-10 of the 1976 Code of Laws defines barbering as:

Shaving or trimming the beard or cutting the hair, giving facial or scalp massages or treatments with oils, creams, lotions and other preparations, either by hand or mechanical appliances; singeing, shampooing or dyeing the hair or applying hair tonics; and applying cosmetic preparations, antiseptics, powders, oils, clays and lotions to the scalp, neck or face.

Similarly, the definition of cosmetology as stated in Section 40-13-10 of the Code of Laws is:

The systematic massaging with the hands or mechanical apparatus of the scalp, face, neck, shoulders and hands; the use of cosmetic preparations and antiseptics in connection therewith; manicuring (except by manicurists employed by barbershops); cutting, dyeing, cleansing, arranging, dressing, waving, and marcelling of the hair; and the use of electricity for stimulating the growth of hair.

The only practical difference between the two occupations is that barbers can shave customers and cosmetologists "arrange" hair in addition to just cutting it. Both occupations are concerned with the same basic activity - hair care - with only minor variations.

This type of specialized regulation is not found within other professions. For example, the State Board of Medical Examiners regulates all types of doctors, from pediatricians to brain surgeons, even though there are far greater differences between medical specialties than there are between barbering and cosmetology. Also a 1978 Indiana Superior Court opinion ruled that the "practice of beauty culture is not a different or other business from that of barbering, but it is essentially and fundamentally the same type of pursuit or business." In another opinion, the Attorney General in Missouri found that barbers and cosmetologists should be allowed to practice in the same establishment.

The continued separation of the barber and cosmetology occupations is cumbersome, unnecessary and results in duplication and wasteful funds. Presently, a licensed cosmetologist with 1,500 hours educational experience and years of work experience must meet all the Barber Board's licensing requirements to work in a barbershop. Only recently have both Boards considered a rule that would give prospective barbers up to 1,000 hours credit for cosmetology training and vice-versa. The distinction between barbers and cosmetologists has been artificially maintained and does not in any way serve the public interest.

#### Misuse of Board's Regulatory Authority

Inspectors for the Board of Barber Examiners have been circulating a petition among South Carolina barbers that calls for continuation of

the Board. The circulation of this petition by the Board is inappropriate, does not benefit the public, and is a misuse of its regulatory power. This petition reads:

We the barbers of South Carolina do not wish to have our State Board combined with any other boards nor do we want our Board to be abolished. We feel that our State Board is doing a good job and we feel that the Board should continue as a whole.

The Board made the petition available for barbers to sign at the annual barber meeting in February 1979. Inspectors have been collecting signatures of barbers on the petition while inspecting barbershops around the State.

The existence of the Board and barber regulation should be to protect the public's health, safety and welfare. The Board's involvement in the circulation of this petition is highly questionable in view of its regulatory authority. A barber might feel he has to sign the petition since the Board holds the power over his license and livelihood. The collection of signatures by Board inspectors is inappropriate and is a misuse of the Board's regulatory power.

#### Excessive Records and Paperwork

Most of the information and records maintained by the Board are unnecessary, wasteful and serve no useful purpose in the regulation of the occupation. The Board keeps a folder on each individual student, apprentice, registered barber and shop containing the various types of required information. Board files contain information pertaining to licensees and applicants dating back to 1937. Files are only disposed of after a barber dies. Examples of the information required and the records maintained by the Board include:

- Barber schools are required to submit to the Board monthly progress reports on each student. The accuracy of these reports is almost never verified by the Board and the information serves little purpose.
- Applications for shop ownership include such information as the names of all shop employees and whether the shop will be "white" or "black." This application must be refiled each time a shop is relocated or ownership is transferred.
- Folders of students dating back to 1937 enrolled in barber school who never became apprentices.
- Folders of apprentices dating back to 1937 who never became registered barbers.
- Folders on all registered barbers, active and inactive in the occupation since 1937.
- Various file drawers containing current and previous license numbers of all registered barbers and shops.
- All applications for renewal of barber, apprentice, and shop licenses for the past five years.

The extent to which records are maintained by the Board is excessive and unnecessary. This situation is the result of a lack of Board examination of its informational needs. Board staff acknowledge that much of the information contained in the files is useless and seldom referred to. At the same time the Board does not retain such necessary types of information as complaints and inspection histories. Only the information which is directly relevant to the accomplishment of the Board's regulatory mission should be maintained.

#### Lack of Public Participation

There is no input from the public to Board policies or decisions. The Board has made little effort to ensure an adequate level of public participation or public awareness of its activities. By statute all five

Board members are barbers and the public is not represented. The Board does not announce or advertise its meetings to the public. The public has only appeared at Board meetings twice in the last five years and this was to discuss complaints. The main purpose of the Board's existence is to protect the public. However, under its present structure the Board only represents the barbers' point of view.

## SUNSET ISSUES AND EVALUATIONS

Act 608 of 1978, known as the Sunset Law, contains a series of eight issues which must be addressed in the review of each agency. These requirements encompass the areas of efficiency and effectiveness which will help determine the termination, continuation, or reestablishment of the agency and will also supply to the General Assembly an indication of the agency's public responsiveness and regulatory compliance. A summary of these issues and Audit Council's responses are presented in the following section.

- (1) DETERMINE THE AMOUNT OF THE INCREASE OR REDUCTION OF COSTS OF GOODS AND SERVICES CAUSED BY THE ADMINISTERING OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW.

The programs and functions of the Board of Barber Examiners do not directly influence the cost of barber services in South Carolina since the Board does not set prices. However, the Board's existence as a regulatory agency does increase the costs for persons in the occupation. Such occupational costs include educational requirements, mandatory examination and licensing fees and compliance with other Board regulations. In addition, licensing requirements may restrict entry into barbering and limit competition, also causing an increase in consumer prices, although the significance of this increase cannot be determined. The Board's existence as another administrative appendage of the State further increases overall governmental costs which are ultimately absorbed by the taxpayer and consumer.



(2) WHAT ECONOMIC, FISCAL AND OTHER IMPACTS WOULD OCCUR IN THE ABSENCE OF THE ADMINISTERING OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW?

The termination of the Board of Barber Examiners and the elimination of its programs would not represent a threat to the public health, safety, and welfare. The Board's present programs are not effectively protecting the public yet the public has suffered no harm. The public health would not be endangered by the absence of health regulations and barbershop inspections. Existing State agencies can assume the present Board responsibilities of complaint handling, barber school approval, financial protection of barber students and the ensuring of proper health standards. Entry into the occupation would not be restricted, thus allowing greater accessibility to barber training and barber services and potentially a decrease in the costs of both. A competitive marketplace would assure quality and competence more effectively than barbering regulation with no danger to the public.

The economic impact of the absence of the Board would be approximately \$86,000 a year of fees not collected from barbers, apprentices, teachers, schools, and barbershops. The State General Fund would lose approximately \$6,000 annually which results from the difference in fees collected and Board expenditures. Prices for the consumer might go down since less government regulation could promote more competition and possibly lower prices.

One other impact of the absence of the Board is that barbers would lose the professional enhancement, status, and prestige

which State regulation brings. However, the advancement of the social and economic interests of an occupation should not be the role of government and is better left to the occupational and trade associations.

- (3) DETERMINE THE OVERALL COSTS, INCLUDING MANPOWER, OF THE AGENCY UNDER REVIEW.

The overall cost of the agency in FY 77-78 was \$76,584. The projected FY 78-79 expenditures are \$87,715. All expenditures are recouped through the charging of fees (see p. 59).

- (4) EVALUATE THE EFFICIENCY OF THE ADMINISTRATION OF THE PROGRAMS OR FUNCTIONS OF THE AGENCY UNDER REVIEW.

The Audit Council found that the Board has failed to develop adequate standards and guidelines in almost every area of its responsibility. The Board has no formalized procedures for the handling of complaints (see p. 72). Board meetings and examinations are not conducted in an efficient manner (see p. 76). The license renewal process is unnecessarily cumbersome and inefficient (see p. 67). Records maintained by the Board are excessive in some cases and insufficient in others. (see p. 82).

- (5) DETERMINE THE EXTENT TO WHICH THE AGENCY UNDER REVIEW HAS ENCOURAGED THE PARTICIPATION OF THE PUBLIC AND, IF APPLICABLE, THE INDUSTRY IT REGULATES.

There has been little effort to ensure any level of public participation by the Board. All Board members represent the occupation of barbering. The public does not appear before the Board except to discuss complaints and this is rare. Once a year, the Board conducts a meeting for all barbers in the State, but the general public is not specifically invited (see p. 83).

- (6) DETERMINE THE EXTENT TO WHICH THE AGENCY DUPLICATES THE SERVICES, FUNCTIONS AND PROGRAMS ADMINISTERED BY ANY OTHER STATE, FEDERAL OR OTHER AGENCY OR ENTITY.

The Board's functions duplicate the services of several State agencies and other entities. Notwithstanding that the Council has concluded that regulation of hair care is not needed, the Board's regulation of hair care is duplicative of the State Board of Cosmetic Art Examiners (see p. 79). The Board's handling of consumer complaints is duplicative of the services and functions of the South Carolina Department of Consumer Affairs (see p. 72). The Board's approval of barber schools and regulation of barber education is the same function performed by the Department of Education's State Approving Office. Private trade accreditation organizations also exist to accredit barber schools (see p. 74). In addition, DHEC through the local Health Departments has responsibility for maintaining health standards (see p. 68).

- (7) EVALUATE THE EFFICIENCY WITH WHICH FORMAL PUBLIC COMPLAINTS FILED WITH THE AGENCY CONCERNING PERSONS OR

INDUSTRIES SUBJECT TO THE REGULATION AND ADMINISTRATION OF THE AGENCY UNDER REVIEW HAVE BEEN PROCESSED.

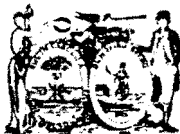
The Board has failed to develop procedures to process public complaints against barbers. Complaints are not documented, nor is follow-up action assured. The Board's handling of complaints has been inefficient and nonbeneficial to the public (see p. 72).

- (8) DETERMINE THE EXTENT TO WHICH THE AGENCY UNDER REVIEW HAS COMPLIED WITH ALL APPLICABLE STATE, FEDERAL AND LOCAL STATUTES AND REGULATIONS.

The Board has not complied with all applicable State statutes and regulations. The Board's abuse of travel allowances is against the State's official policy on travel reimbursement (see p. 76). There are no Federal laws or regulations directly regulating barbering.

## APPENDICES

APPENDIX 1



BOARD MEMBERS

AURIE GOSNELL  
CHAIRMAN  
AIKEN, S. C.

LOTTIE L. GREGG

VICE-CHAIRMAN  
WEST COLUMBIA, S. C.

BOARD MEMBERS

VIRGINIA A. RUSHING  
HAMPTON, S. C.

RUBY T. FOWLER  
CLINTON, S. C.

**South Carolina**  
**State Board of Cosmetic Art Examiners**

1209 BLANDING STREET

Columbia, S.C. 29201

DORIS BRANTLEY, EXECUTIVE SECRETARY

758-3371-3372

SOUTH CAROLINA STATE BOARD OF COSMETIC ART EXAMINERS

RESPONSE

TO

LEGISLATIVE AUDIT COUNCIL'S REPORT

AUGUST 13, 1979

The Board of Cosmetic Art Examiners has reviewed the report of the Legislative Audit Council in detail. The Board is in agreement with certain of the Council's findings. However, it is apparent that the Council did not research the cosmetology profession in sufficient depth to gain an educated understanding of the nature of the tasks performed in that field, the dangers inherent in those tasks and the training necessary in order to ensure both consumer safety as well as consumer satisfaction. It should be stated at the outset that the law under which the Board operates has been in existence since 1934. Many of its provisions are impractical, inapplicable, or obsolete. In the last six months the Board has been seeking to amend that Act in order to give them general regulatory power. The Board could then seek to repeal certain provisions of the Act while replacing those provisions with regulations which would better serve the public and the profession.

The Board of Cosmetic Art Examiners disagrees strongly with the Council's statement that the minor discomfort of a bad hair style is the worst threat to the public when considering the lack of supervision of beauty salons as well as the abolition of licensing requirements for cosmetologists. This comment disregards entirely the use of strong and dangerous chemicals which are present in various hair preparations, and which are used frequently in this occupation. These various chemicals affect different persons in different ways depending on factors such as their skin type, their state of health, certain drugs they may be taking, etc. If these factors are not taken into consideration, resulting injuries including severe burns, alopecia (loss of hair), and serious allergic reactions can occur. There are dangers inherent in many of the instruments used in a beauty salon as well as in the chemical preparations, e.g. thermal irons, hair shapers (straight razors), shears, manicuring implements. The need for licensure is dictated by the potential dangers inherent in the use of both chemicals and instruments by unskilled and untrained persons. In addition to the consumer safety, licensing ensures a standard of uniformity in the training and ability of persons who may hold themselves out to the public as cosmetologists.

One crucial aspect of the licensure issue is that of reciprocity. At present, South Carolina has reciprocal arrangements with 42 States. Persons licensed in South Carolina who might move to another of those States are issued a license based entirely on their licensure in this State. If South Carolina were to abolish licensing, persons who had practiced cosmetology in this State would face untold difficulties in meeting another State's requirements.

South Carolina State Board of Cosmetic Art Examiners

The Council's report states that the required curriculum includes subjects which are unrelated to the basic function of cosmetology such as: anatomy, psychology and public relations. Further research into the area of cosmetology would indicate that anatomy is of considerable importance to the practice of cosmetology. A basic knowledge of the structure and functions of the human body forms the scientific basis for the proper application of beauty treatments. A basic study of psychology and public relations is essential to any profession in which dealing with the public is a primary consideration. Standard training programs in sales, business, teaching, nursing and other professions involving constant exposure to the public include courses of this nature.

The report states in addition that many of the techniques taught and required on the exam are outdated and no longer used in the market place. The report cites the art of finger waving as an example, stating that this skill is rarely used by today's cosmetologist. If the Audit Council had further researched this judgement they would have learned that proficiency in finger waving is extremely important to the cosmetologist because it is the foundation of modern hair styling. The majority of contemporary have evolved from basic finger waving patterns. In addition, finger waving teaches a stylist more about the structure and nature of the hair shaft with regard to an individual client's hair, a few preliminary finger waves increase a cosmetologists familiarity with the feel and body of that person's hair, enabling the stylist to use the appropriate treatment or technique.

The Council states that there is no evidence that the lack of regulations or health inspection would affect the public health or welfare. The Council also states that the regulations are either unnecessary or unenforceable, and that there is no record that the Board has ever taken any disciplinary action against a shop owner for operating a dirty shop. In this comment the Council failed to take into consideration the deterrent effect which the always present possibility of an inspector's visit may have against health or sanitary problems in a beauty salon. Although basic hygiene should be common knowledge and practices ensuring a clean and healthy business site should be the norm, these practices are all too often ignored. In a business dealing not only with dangerous chemicals but also with areas of the body which potentially carry germs, cleanliness and caution are mandatory. Unless these regulations are specifically enforced, they tend to be neglected. (An example is filling station rest rooms which are frequently discouraging in terms of cleanliness.) Although it might seem that an improperly maintained shop would be apparent to the public, this is not the case since the transgressions are not always visible to an untrained observer. Chemicals which react to each other must not be placed in proximity to one another; certain chemicals must be guarded from heat sources; potential breeding places for contagious germs must be sanitized. Exhaustive and specific criteria have been developed for the inspectors to ensure that they know what to check. The only method of maintaining proper hygienic standards is the utilization of frequent and often unexpected inspections. The fact that these regulations and inspections appear to be unnecessary could well be that they are having the intended result. The Board does compile complaint and inspection reports for each shop and in a case of repeated violations of the regulations, a license may be revoked. On July 31, 1979, the Board of Cosmetic Art Examiners did in fact revoke the license of a shop in Camden, South Carolina.

The Council states that the Board does not respond in a timely and efficient manner to consumer complaints. It cites as an example five consumer complaints with regard to one shop which were received on March 19, 1979, and whose complaints were not heard until May 9, 1979. In this particular case there were several reasons for the delay in the hearing of those complaints. The primary problem was that four of the five complainants refused to appear and testify against the shop owner since they stated that they were not particularly dissatisfied and that their complaints had been solicited by the remaining complainant. The Board experienced a further problem in

South Carolina State Board of Cosmetic Art Examiners

that the remaining complainant could not find a convenient time to appear in Columbia. Once a date was established it was necessary to give the shop owner a minimum of ten working days notice in order that she might prepare and, if so desired, retain an attorney. Also, in May, the Board held a hearing concerning a particular school in the Columbia area about which the Board had received a number of student complaints. This school was put on probation and received only a provisional renewal of its license. The Board is in agreement that the protection of the public should be one of its primary functions and in its opinion within the purview of the present statute in fulfilling this duty. The Board would welcome the introduction in a new statute guidelines and procedures for the encouragement and resolution of consumer complaints.

The report is also critical of the time involved in the inspectors' investigation of complaints. The Board has three inspectors to survey the entire state. The state is roughly divided into 34 sections, each containing approximately 100 shops. These sections are further combined into 3 larger areas. The inspectors are in the field from Monday through Friday working specifically in one of these three larger areas. If a complaint should arise in a section which is some distance from any of the inspectors, an immediate response would require one of them to drop her work in one section, drive to the source of the complaint, investigate the complaint and then return to her original assignment to resume her work there. When the time element is weighed against the excessive travel expenditures and the disruption of any attempt at organization in the inspectors' work, the result seems hardly justifiable.

While the Council charges the Board with being slow to respond to complaints, it charges them with excessive per diem and travel expenses. This presents a conflict since the Board can only take action when officially in session. The members of the Board must generally come from different parts of the state and although they coordinate their travel whenever practicable, they must often travel separately. The larger part of per diem and travel expenses occurs during the months of April and May. During this period, the Board travels to all the vocational schools in the state in order to administer the exam to students. The Board has considered giving the examination only in Columbia. Since the exam requires each student to have a live model on which to demonstrate their practical skills, this change in policy would entail the traveling to Columbia of all the students and their models. If the responsibility of arriving at the exam were the individual responsibility of the student, the transportation aspect would present a financial deterrent to some students who might otherwise be willing and prepared to take it. Another possibility would be for the schools to transport the students and models to Columbia. This alternative would necessitate the transporting of a much larger number of persons and would present the state with a much higher cost than the current practice of sending the four Board members to the various schools.

The Council cited only six schools in South Carolina as being nationally accredited. The implication is that the requirements of the Cosmetology Accrediting Commission (CAC) are stricter than those of the Board. The Commission is a worthy organization and should not be undermined. An advantage to accreditation by CAC is that it is recognized by HEW. Schools which are accredited by CAC become available for various federal funding programs. However, the application procedure for CAC accreditation is involved, lengthy, and expensive rather than technically and qualitatively stringent. As a result, it is the Board's understanding that there are a number of schools which have not applied for national accreditation.

The report is inaccurate in stating that the Board renews 14,000 licenses between the months of January and March entailing the hiring of a part-time employee. The Board has established two renewal seasons: the Junior and Registered Cosmetologists renew licenses from January through March, Beauty Salons, Beauty Schools and Instructors renew licenses from June through August. This staggered distribution enables the



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regular staff to process the renewals with only minimal outside assistance. For fiscal year ending June 30, 1978 the Board employed temporary help for seven and one-half days. For fiscal year ending June 30, 1979 one part-time employee was hired for seven months. This employee was not hired for the sole purpose of helping with renewals, but also to fill a full-time secretarial position which was unexpectedly vacated and which took five months to fill.

The Council states that the lack of public participation in the Board's activities is another negative feature in its operation. The Board would like to point out that according to the statute under which the Board currently operates one must be a registered cosmetologist to sit on the Board as a member. There is no provision in the statute for public participation. The Board would not object to having a non-cosmetologist member sitting on the Board and has not resisted the appointment of a consumer to sit on the Board.

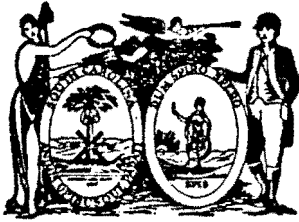
Among items which the Legislative Audit Council cited as impractical or obsolete, there are a number which the Board already had the intention to change. The Council states that they find the need of the six months apprenticeship (junior cosmetologist) to be obsolete. The Board had already intended to delete this six months apprenticeship from the statute.

The report states that it is restrictive to require a person to be a cosmetologist in order to perform any task in a beauty salon. The Board is aware of the restrictive nature of this requirement of the statute and legislation establishing new categories for licensure is in the formative stages.

The Council states that the T.B. test is antiquated and no longer necessary and that most other states have eliminated this test. The Board has no problem with eliminating the requirement for the tuberculin test. The statute states that the sanitary rules and regulations adopted by the Board shall be approved by DHEC. A recommendation by DHEC to eliminate the tuberculin test would have been readily adopted just as their recommendation to eliminate the serological test some years back was immediately initiated.

The Council indicates that the Board of Cosmetic Art Examiners duplicates the function of the Board of Barber Examiners. Both boards have already considered this duplication and have met to discuss the issue of reciprocity. The Cosmetic Art Board has been hindered in resolving this issue because of its inability to gain general regulatory power which the Board of Barber Examiners already possesses. The proposal between the two Boards deals with allowing reciprocity with regard to a certain number of hours and allowing barbers or cosmetologists to work with slight supervision in those areas in which they have not had sufficient training e.g. haircutting in the areas of shingling, tapering, and shaving for cosmetologists, chemical processes (coloring, chemical hair relaxing and chemical permanent waving) for barbers. It should be mentioned at this point that although Oregon, Colorado and West Virginia have consolidated their barber and cosmetology board, the other states which have considered consolidation have defeated it. No state at this point has abolished the boards in their entirety.

APPENDIX 2



**SOUTH CAROLINA  
STATE BOARD OF BARBER EXAMINERS  
1425 BARNWELL STREET  
P.O. BOX 11983  
PHONE: 758-3356  
COLUMBIA, S.C. 29211**

**BOARD MEMBERS:  
HERBERT B. JONES  
KEN WILSON  
THOMAS KITCHINGS  
ANEITA DAVIS  
ROBERT R. MARTIN**

**GAYE B. CARTER  
EXECUTIVE SECRETARY**

August 13, 1979

Mr. George L. Schroeder  
Executive Director  
Legislative Audit Council  
Bankers Trust Towers, Suite 500  
Columbia, S. C. 29201

Dear Mr. Schroeder:

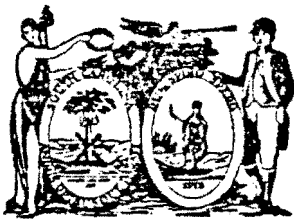
The S. C. State Board of Barber Examiners appreciates this opportunity to respond to the Legislative Audit Council's review of this Board.

The S. C. State Board of Barber Examiners was created under Act No. 223 (Acts of 1937) to regulate the practice of barbering in the State of South Carolina. The Board consists of 5 members appointed by the Governor, each member is to be an experienced barber with not less than 5 years of practice in this State. Terms of office are 4 years. The present Board is:

Chairman - Thomas Kitchings, Williston, S. C.  
Vice-Chairman - Ken Wilson, Easley, S. C.  
Board Member - Herbert B. Jones, Greenville, S. C.  
Board Member - Aneita Davis, Columbia, S. C.  
Board Member - Robert R. Martin, Spartanburg, S. C.

Since the Board was created 42 years ago, the Board has been instrumental in bringing about great changes in the barber profession. The standard of barber shops in this state has greatly improved along with the education requirements of the barbers in this State.

The Board agrees that the Legislative Audit's review of this Board is timely, however, the Board has some additional comments to make.



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August 13, 1979  
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### COMPLAINTS

All complaints received in this office by telephone, by letter, and all complaints given personally to our Inspectors by barbers and consumers are checked immediately. The Board and the Inspectors have more experience in judging the type of complaints received than any other agency would have.

A record of all complaints are kept by the Inspectors in their Inspector's books for at least two years. These records are maintained in the Barber Board office.

It has been a practice of the Board to place complaints in the Secretary's file and in the barber's personal file.

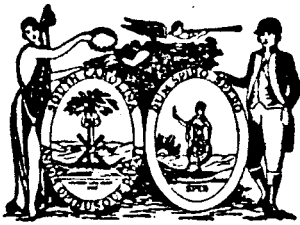
The Barber Board has always been available to the barber and to the consumer if they have any complaints. The fact that there are few complaints, would seem to indicate that the Board's oversight and inspections are effective.

The Barber Board feels that the Consumer Affairs Department would not be an appropriate agency to handle these complaints.

### PUBLIC PARTICIPATION

The Audit Council noted that there are no public members on the Barber Board, however, at the present time there is no law governing this situation. Our Board members have gone on record as favoring public members on our Board. This decision is not ours to make. It is up to the General Assembly. We support their decision.

Since the Freedom of Information Act was passed, the Barber Board has sent a notice informing the barber and the public of the annual barber meeting which is held in February. This was sent to several newspapers across the State. The Audit Council noted that the public was not specifically not invited. This is found to be untrue. The Board has always welcomed the public input for the barber profession.



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### COST AND EVALUATION

The Barber Board is a self-supporting agency. The Board operates on the revenue received from the issuance of barber licenses, apprentice licenses, shop licenses, and other revenue from examination fees and restoration fees.

Functions and duties of the Barber Board is the sanitary inspections of barber shops in the State and also barber schools, and colleges, issuing barber licenses, apprentice licenses, shop licenses, and conducting examinations of apprentice and registered barbers, and incoming barbers from other states. Also, issuing student permits for the barber schools in the State.

The Barber Board operates as one unit and there are no different departments or functions of the said Board which may be more intelligently consolidated or coordinated.

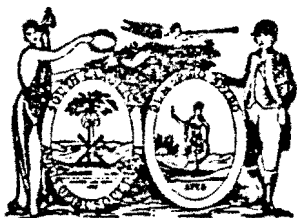
All the monies that are derived from the licenses and examination fees are deposited into the State Treasurer's account. Any money that is left over at the end of the fiscal year is automatically put into the General Fund. The Board does not retain any money from one year to the next.

At present the Board is funded entirely by the profession it regulates. If the job of inspecting shops and resolving complaints is given to other agencies, the costs will be the same, but will be paid by the taxpayer's money.

This shows that the Board does not cost the State any money, but in fact, it helps the State's economy.

### EDUCATION AND TRAINING

Under the law, the students are required to have a ninth grade education or its equivalent. Prior to 1967 there were no educational requirements for the student. The Board found that there was a definite need for education to keep up with the growth and change of the barber profession. Barber schools were organized for this purpose to train the students. Students who cannot go to school have the alternative to train in a barber shop under the direct supervision of a registered barber.



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The registered barber must be qualified under the law to train a student in his shop. The Audit Council noted that the schools would be in a better position if they could be put under the State Approving Section of the Department of Education, however, the State Approving Section already approves the school's curriculum. The Veterans attending barber schools receive funds from the State, but before they can receive these funds, the State Approving Section must approve their curriculum.

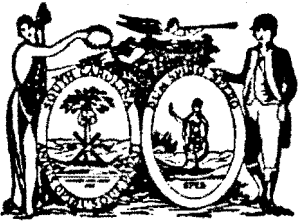
The extensive use of chemicals and the many different styles of cutting men's and women's hair make proper training more important than ever.

If the necessary training of the barber was not required, incompetency would flourish and the public would suffer greatly.

The 1978 General Assembly passed an Amendment allowing reciprocity between other states in barbering. The Board was one of the first states to have reciprocity and the Board has started using National testing. The Board feels that they are a working Board and they are doing their best to keep up with the National standards of the barber profession.

#### INSPECTION OF SHOPS

All barber shops in the State are inspected up to 2 to 3 times every 3 months. Each Inspector has a list of all barber shops in his territory. The Board members periodically check behind each Inspector. Inspections are unannounced. Further, customers can call with their complaints about hair cuts or sanitary conditions. Shops found unsanitary are advised as to what they have to do to bring their shop up to standard. If they have not met these requirements, they are given 30 days to bring their shop up to standard. There have been cases in the past where some shops were permanently closed and others for a period of 30 days. All rules and regulations governing barber shops in the State are approved by the State Board of Health.



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In conclusion, the Board of Barber Examiners feels that this audit is good in the fact that it has proved to this assembly that this Board is very open and is willing to examine ourselves and quite capable of making the changes necessary to keep the public interest number one with our Board.

Also, combining the Barber Board and its functions with any other State Agency is not desirable for the reason its efficiency would be impaired and no savings would result therefrom, nor would the costs of government be less. No other State Agency would manifest and exhibit as much, or the same amount or pride and interest in the welfare of the barbers, as well as the consumers who patronize the barber shops.

Respectfully submitted,

S. C. STATE BOARD OF BARBER EXAMINERS

*Thomas Kitchings*

Thomas Kitchings, Chairman

TK/gbc

cc: Board Members